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LOK SABHA DEBATES

(Part II—Proceedings other than Questions and Answers)

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LOK SABHA SECRETARIAT
NEW DELHI

SIX ANNAS (INLAND) TWO SHILLINGS (FOREIGN)

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(Part II—Proceedings other than Questions and Answers)

LOK SABHA

Saturday, 18th September, 1954

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(*No Questions: Part I not published*)

11 A.M.

PAPER LAID ON THE TABLE

NOTIFICATIONS UNDER SEA CUSTOMS ACT

The Deputy Minister of Finance (Shri A. C. Guha): Sir, I beg to lay on the Table a copy each of the Notifications Customs Nos. 67 and 68, dated the 17th July, 1954, under sub-section (4) of section 43B of the Sea Customs Act, 1878, as inserted by the Sea Customs (Amendment) Act, 1953. [*Placed in Library. See* No. S-339/54]

INDIAN INCOME-TAX (AMENDMENT) BILL—*Contd.*

Mr. Speaker: The House will now proceed with the further consideration of the following motion moved by Shri M. C. Shah, yesterday:—

> "That the Bill further to amend the Indian Income-tax Act, 1922, to provide for the assessment or re-assessment of persons who have to a substantial extent evaded payment of taxes during a certain period and for matters connected therewith, be taken into consideration."

There are also some amendments which are before the House.

As the House is aware, 6 hours have been allotted to this Bill out of which 27 minutes have been availed of yesterday and 5 hours 33 minutes are still left. This would mean that discussion on this Bill would conclude by about 4-30 P.M., to be exact at 4-33 P.M. Thereafter the House will take up the Central Excises and Salt (Amendment) Bill for which 3 hours have been allotted. Of course, if this finishes earlier we need not carry on the discussion for the full time because the time is allotted.

Now, there is one question which we must also decide. What time shall we take for the consideration motion, what time for the clause by clause and what time for the third reading. I have myself no idea, but I am inclined to think that the clause by clause stage, though the amendments are few, is really the heart of the legislation, and therefore, instead of having a longer time for general consideration, we may have a longer time for the clause by clause stage; then, of course, a shorter time for the third reading stage. It all depends upon the will of the Members. If they want to discuss the individual clauses for a shorter time, and want to have general discussion for a longer time, I have no objection.

Shri C. C. Shah (Gohilwad-Sorath): I was submitting, Sir, that so far as this Bill is concerned, the amendments are of a minor character and in the consideration stage practically all the amendments shall have to be referred to and discussed. Therefore, my submission is that this is a Bill in which more time should be allotted to consideration stage rather than to clause by clause stage.

Pandit Thakur Das Bhargava (Gurgaon): As a matter of fact, if you will kindly go through the amendments you will find that they will not take much time.

Mr. Speaker: If that is the view of the House, what time shall we fix for consideration of the motion? Shall we have three hours inclusive of the time taken?

Shri T. N. Singh (Banaras Distt.—East): 4 hours.

Mr. Speaker: We have already taken 27 minutes.

Shri T. N. Singh. Sir, the Minister will take about one hour for his reply and then the Members will only be left with three or three and a half hours. Therefore, I would suggest that it should be 4 hours.

Mr. Speaker: I have no objection, if the House is agreeable.

Several Hon. Members: Yes, yes.

Mr. Speaker: Then, we shall have 4 hours for the general discussion and we are left with 1½ hours out of the 5½ hours we have got. Therefore, let us have 4 hours for the general discussion, ½ hour for the third reading and one hour for the clause by clause stage; that makes 5½ hours. Now, I call upon Mr. T. N. Singh to continue his speach.

Shri T. N. Singh: Sir, I had just started yesterday and in that I had referred to the immense resources, talent and the experience gained during the past centuries, or I should say, years of evasion of taxes which is at the disposal of those who are being touched by this Bill. Now, what is our defence against such powerful resources? That is what I want to know, and that is my test for the efficacy of this amending Bill.

This House is aware of the dissatisfaction that has been felt, not only in this House, but outside by the common man, the masses, who see that those who have profiteered, who have blackmarketed, who have done all kinds of things to make money—for whom money is God—have been escaping all the attempts of Government and all the attempts of the Investigation Commission to catch them. At least the minimum consequences should fall on them They must be made to part with their ill-gotten gains. That was the object of the Investigation Commission. Now, I want to know whether this amending Bill is going to meet that purpose.

I think on that issue, the Government as well as every section of the House is at one. I have yet to see a Member, here in this House, who will say, that those who blackmarketed; those who profiteered, should get away with their ill-gotton gains. I think there is nobody here who will say that. I am sure the Government is very keen; otherwise why should they have come with an ordinance. As a matter of fact, I congratulate the Government on bringing this ordinance. Though it may seem improper to some of us who are very zealous in regard to our powers, Government did the right thing. After all, it was the intention of this House that the Investigation Commission should proceed with its work. The principles enunciated in that Act have been accepted by this House, and if by any reason, the objective of the measure was being defeated, it was the duty of the Government to intervene immediately. Government were therefore acting only according to the wishes of the Parliament. That is my submission.

There are cases where ordinances are enacted which may not be according to the wishes of the Parliament. But, in this case Government were only carrying out what the Parliament had directed them earlier to do. Therefore, I welcome the action taken by the Government, in issuing an ordinance.

Now I come to the results, that followed the ordinance. As far as we know—I hope the Finance Minister will correct me if I am wrong—that the Investigation Commission had assessed tax of about Rs. 8 crores under Section 5(4), out of which, I understand, about Rs. 2½ crores were to be collected. As a matter of fact, all that was in suspense. The parties could have got away with the money in the meantime and also transferred their assets. Now, the result has been that at least Rs. 152 lakhs have been collected, and in addition Rs. 93 lakhs of other moneys have also been collected by the Government, in this short period after the issue of the ordinance. This is a very good record. The Commission, in the course of seven or eight years has reassessed tax of about Rs. 8 crores. If in the course of a month or two, as a result of this ordinance, we have got even Rs. 93 lakhs new money, and prevented Rs. 152 lakhs from being lost to the Exchequer, I think we should congratulate the Government and ourselves. I hope no objections will be raised from any corner of the House in regard to this matter.

Now I come to the acid test for this Bill. In all humility, as our objects are the same, I would make a submission. Let us see whether the defects which were in the original Act are now being remedied and whether the difficulties that arose in the way of searches, in the way of assessment, etc. are being met by this amendment. The second point that we have to see is whether the powers and authority that were available under that Act are being transferred to those on whom the responsibilities will fall under this amending Bill or not. I hope that the House has accepted the principle, whatever may be the decision of the Supreme Court,—I am not concerned with it just now but I will come to it later on—that as a result of the cases referred to the Commission up to the 31st December, 1947, if investigation shows that there were evasions, the Commission can go into those cases, report them to Government and later on an assessment can be made. We thought that in the hurry at that time it might not have been possible to place all the cases up to 1947 and, therefore, this section 5(4) was there. The object was that new connected cases, in which fresh misdeeds came to light as a result of the investigation, should be taken up. Has that object been served? My complaint is that the powers which the Commission enjoyed, namely, of looking into the accounts, and seizing books etc. and requiring banks to submit statement of accounts have been taken away under this amending Bill. It may appear strange to some who talk of individual liberty and freedom and all the old nineteenth century ideas of liberty, freedom, etc., but I want to tell them that those days are gone and we have to see that the poor man gets justice. What is the position? The Supreme Court has objected about some discrimination against a particular class of people. I have seen the judgment and I am really pained that such discrimination should worry such eminent persons, and not the discrimination that we see every day before our eyes. What about the discrimination that we poor people suffer from? Our children are not getting the same education as the children of the rich people, people who have blackmarketed. Their children on the other hand get the best type of education in public schools. And it is not only better education that they get, but they also get the highest jobs because of the educational facilities that they have. But it is not called discrimination. Then again, even under the Sales Tax Act, it is possible for the ordinary sales tax officer, the lowest officer, to go and seize the books, check the accounts, etc. That is allowed because it is the poor petty shopkeeper that is affected and his number is large, but nobody is worried about him. I have not heard a champion of the liberty and freedom of the people talking about that. No lawyer has thought of discrimination in such cases and no jurist has talked of discrimination in such cases. Take the excise officer in this very Finance Department. If somebody tries to evade excise duty, if he tries to cover up anything which he will sell later

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on illegally and thus make money out of it; the excise inspector can go and search his premises, arrest him and send him to jail. In that case it is all right, but here because big people are concerned, people worth crores of rupees, you do not give the right of search to your officers of the highest rank even. Probably nobody from our side is going to object to these powers. We want more powers for Government in such matters. But I am sure some persons from the Opposition will get up and say "It will be very bad, you are encroaching upon the rights of individual freedom, fundamental rights and so on." Nobody remembers these fundamental rights on other occasions, and in cases of small men, but on this occasion it will be quoted *ad nauseam*. So I very humbly submit that these people who have evaded even the ingenuity of the persons of the rank and capabilities of the Investigation Commission members, people who have set at naught all the ingenuity of the Government, and have escaped tax on money which was ill-gotten, which was got out of black marketing have escaped punishment already. Is not their escape in this manner a discrimination against those of us who never indulge in such things? I would very strongly urge that Government should at least keep this amending Bill on a par with the original commission which it seeks to replace and give full powers to the officials concerned at the highest level. That is very important.

A doubt has arisen in my mind and it is this. I was rather happy about one thing that under clause 2 of this Bill, in sub-clause (1A) it is laid down that it will be open to the income-tax officer to go into all cases where the assessment has been low or where a low assessment has been made, in the period 1939 to 1946. Under the Income-tax Investigation Commission Act, only cases which were referred to up to the 31st December, 1947 could be taken up. To that extent I welcome this Bill, but the Statement of Objects and Reasons seems to have been obsessed too much by the special problem arising out of the Supreme Court's judgment where it appears that only those cases which were seized of and reported by the Commission will be looked into under this Bill. I want the Finance Minister to state categorically whether the phraseology of the Bill empowers the Government to open cases which were not referred, by mistake, oversight or due to some other reason, to the Investigation Commission upto the 31st December, 1947. Will they also be taken cognisance of under this Bill? I want to be very clear on this point. The Statement of Objects and Reasons, as it is worded, raises a doubt in my mind. I shall be glad if it is made clear. Let those people, whose names did not appear in the list presented upto the 31st December, 1947, also know that justice will be done and that they shall not escape. Let their be no discrimination in favour of such persons.

I was reading through some portions of the Income-tax Investigation Commission's reports and it was interesting to see a number of cases in which ingenious devices have been adopted for evading tax—under-invoicing, etc.—and these evaders have swallowed such enormous sums that even Ravana with his numerous mouths could not have accomplished.

On page 3 of the report of the Commission for the year 1951, the following passage is found:

> "The investigation has also brought home to the Commission the conviction that evasion has been practised on a large scale during war-time when profits were heavy and administration slack, so that not only were profits made in contravention of the existing laws and regulations but they were also saved from their liability to tax so much so that the

> honest tax-payer had the very unfortunate and bitter experience of seeing his unscrupulous and unsocial neighbour not only making huge illegal profits but also getting away with them without the payment of legitimate tax."

Please mark the following sentence. "The activities of the Commission to bring to book such profits had therefore the role of retributive justice. The complaint heard from some assessees whose cases had been referred to it has been that their brethren who had practised the same thing had escaped scrutiny by reason of their cases not being referred to the Commission for investigation." That was their fear, grievance or whatever you may call it. This so-called discrimination seems to have cropped up as a result of the Supreme Court's judgment. It is in whose favour? Their argument seems to be: there were some who have escaped; therefore, let others also escape. That is the result. Instead of an honest man feeling that all the other fellows who have escaped should be punished or should be made to discard their ill-gotten gains, the dishonest man claims escape from punishment because some other dishonest fellows have escaped. Some of them were got hold of and the others were not. Therefore, those who were caught should not be proceeded with! The logic, seems to be that because some escaped others also should be allowed to escape. That is an argument which I can never accept. I am sorry to say so with due deference to the judgment of the Supreme Court.

I very strongly urge that this amendment of the Act alone will not probably help us much. We shall have to go to the root of the matter. This question of discrimination has to be clarified in our Constitution. It should not be made use of against an honest man and in favour of anti-social persons; that should be checked. I would very strongly urge the Government and the House to see that the Constitution which we all respect and we all hold in high esteem should not be misused by some dozens of dishonest persons. If there is any lacuna—I believe there is a lacuna—because our Supreme Court has ruled in such a way—let us rectify it so that it will be possible for the Government to discriminate between a fair person and an unfair person who cheats society, who cheats the Government and who cheats the masses. Even if it amounts to discrimination, that is justified. Something like that should be done.

I have come across cases in the Commission's reports where goods had been adulterated; where foodstuffs had been adulterated. That is criminal. Such people should have been behind the bars long ago. They have not only been able to pass on these things to the masses but they have also been able to get away with the liability which they owed to the State. It should be seen to it that such persons do not escape under such pretexts. I am therefore for strengthening this measure, as I earlier indicated, as much as possible. Give more powers to your authorities; give them to the Central Board of Revenue if you cannot give these powers to the lower category of officials. Is it suggested that the members of the Central Board of Revenue are not honourable men and cannot perform their duty efficiently and honestly? You can entrust certain powers to a high-power commission. Give those same powers to the Central Board of Revenue. See that the Board can order for searches of premises, get hold of books, and ask the banks to furnish statements of accounts. Many things can be discovered by statements from the banks. It is a very important matter. As a matter of fact, I was sorry to note that in one case some of the bank's officials were parties to covering up these things. That is very tragic. One has only to go through these reports of the Commission. Therefore, I would earnestly urge that if there are black sheep even among bank officials let the Central Board of

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Revenue have the power to search the premises of banks, what to say of merely demanding accounts. I am perfectly willing to go that far. I feel strongly about it. I find that people who should have been behind the bars are flourishing. That must be made impossible.

I have another point to make. I feel that there were cases which were probably reported to the Central Board of Revenue up to the 26th January, 1950. Up to that time, according to the Supreme Court this Act is quite all right; it is applicable. After the 26th January, 1950 when the Constitution came into force, there might be cases where the Commission might have completed its work and the Central Board of Revenue might be seized of the matter. What is going to be done in such cases if actual realisation orders were not issued or were issued only after the 26th January, 1950? Naturally when the conclusions of the Commission are received it takes some time for the orders to be brought into effect. Now persons covered by the Commission's report on those dates seem to be escaping. I personally feel that there can be no doubt that whatever had been done by the Commission before 26th January, 1950 is even now valid and such cases should be proceeded with. If there is any doubt, I would urge the hon. Finance Minister to clear up that matter if possible in this very amending Bill. It is very essential. Why should such a category of people escape under cover of a minor technical point like this? Some thing should be done about such cases and the position must be clarified.

Among the numerous reform measures that our Congress Governments have taken during the last few years, nothing has been welcomed so much as the abolition of *zamindari* or property rights of various kinds, intermediaries etc.—all kinds of intermediaries, I may say in land. We have all welcomed them. The intermediaries have been expropriated and rightly too. I want to know whether it is not desirable that these business men, these tax evaders at least should be expropriated or should also meet the fate of the *zamindars*. Why should any sanctity be attached to any kind of property. If *zamindari* property has been dealt with at a particular level and in a particular manner—even land owners having more than thirty bighas of land have had to go —we welcome these measures; we have worked for it all our lives, for the last thirty years......

An Hon. Member: You have not done it.

Mr. Speaker: Order, order. Let him proceed.

Shri T. N. Singh: I want to know whether Government will consider the advisability of making a beginning at least with such cases where people with all their ill-gotten money have escaped taxation and where it is discovered that their earlier statements were false. We have not even prosecuted them, even though we know that they have been giving false statements and have committed perjury, forgery and what not. They have not been brought before law courts. Will it not be justice and fairplay that we make a beginning by expropriating these people? I want to know whether Government will give their thought to this matter and expropriate such people. That is the only way to meet this menace of tax dodgers, profiteers, forgers etc. Otherwise we will be just bringing more and more measures and these people will escape because they have at their disposal talent, money and everything.

Another thing that I want to urge in this very connection is this I have heard of very few cases of prosecutions, because the Income-tax Investigation Act provides that if a man makes disclosures for a settlement, he shall not be punished for earlier false statements. That is the provision there. But when do they confess? When they are cornered, at the last minute, when they have no other go. I want something to be done right at this moment that those who come with belated confessions should be dealt with strongly and not treated on a par with those who make a clean breast of it at the beginning. After all, why such indiscriminate kind of discrimination between such people? I would therefore urge the Finance Minister to look into this point also. I am not a lawyer. I am not also a financier. I cannot suggest the actual phraseology in which this should be put. I would only convey my feelings to the Government and the Finance Minister in this matter and suggest that some further amendment should be brought in even at this late stage. I do not think anybody would object to that. By a common agreement something should be done to punish such people.

I hope that the House will give strong support to this Bill and, not only that, but also that it will urge Government to go still further so that such persons may not escape any more.

Sardar Hukam Singh (Kapurthala-Bhatinda): I am in entire agreement with the objects of this Bill, and I support it wholeheartedly. I also agree that there was perfect justification for this Ordinance as well and it was timely promulgated. That Ordinance is now sought to be replaced by this Bill.

My friend who spoke just now has taken exception to certain parts of this Bill and has observed that it does not go far enough. I entirely agree with him so far as this question is concerned that tax evaders should be dealt with severely and any measures, however stringent, might be adopted because they deserve the severest punishment.

But so far as this Bill is concerned I differ from him. Because, the Income-tax Investigation Act, which was enacted in 1947, was a special measure and the object we then had was that "it was expedient for purposes of ascertaining whether the actual incidence of taxation on income is or has been in recent years in accordance with the provisions of law." Big incomes had escaped assessment. Time had run out, because during the war people had amassed huge wealth and it was thought that those persons who had black-marketed, amassed huge amounts of wealth, should not escape the payment of tax. Therefore, special provisions were made in that Act and special authority was given for that purpose.

My friend was quite right when he said that certain extraordinary powers that were given to that Commission are not to be found here. But now we are returning to normal law. This is the amendment of the Income-tax Act, not of the Income-tax Investigation Commission Act. What we are providing here is this. Under section 22 the Income-tax Officer is authorised to issue a notice to the assessee who he thinks, ought to pay some tax. And because the total income that he has to take into account is of the previous year, and now so many years have run out, it is being provided that the previous year would mean any of those years during which war lasted. We are taking into account all that period during which war raged and during which those assessees were not assessed to income-tax. But we are returning to normal times now. If the income-tax law were to be applied, the Income-tax Officer was entitled only to take the income during the previous year, as laid down in section 22 of the Act. That 'previous year' has now been defined and taken to mean "within the period beginning on the 1st day of September, 1939, and ending on the 31st day of March, 1946".

My friend had those fears that the cases that had not been referred to the Income-tax Investigation Commission might not be investigated under this measure. So far as I can see, the

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language is sufficiently wide. Of course, those cases that were referred to the Commission, form a separate category and they have to be decided upon by the Income-tax Investigation Commission. But during the investigation of those cases, if the Commission found that there were some others which ought to have been investigated but had not been referred by the Central Government, they could take cognizance of those cases and make a report to the Central Government; and it was obligatory on the Central Government to refer those cases also to that Commission.

It is only the second category which had not been originally referred by the Central Government to the Commission and which were made a report on by the Commission to the Central Government under section 5(4) that this Bill brings to the fore. And even then, so far as the language goes, I hope that this would cover all the cases, and not only those that were taken cognizance of under section 5(4) which has now been declared *ultra vires* because our Supreme Court thought that there was discrimination. There must have been some individual citizens, others, perhaps a larger number, that could not be brought in, that had the same amount of income which could be assessed on the same principles. But they escaped assessment because the Central Government did not get a report from the Investigation Commission.

So far as I can make out, all cases would be covered which come "within the period beginning on the 1st day of September, 1939 and ending on the 31st day of March 1946", whether the Investigation Commission had made a report under section 5(4) or not. Therefore I think there ought not to be any fears as regards those cases, because "previous year" which precluded the income-tax authorities from taking cognizance of periods during which those incomes had accrued, would now include all this period. I think this is a wholesome measure and would include all incomes that had accrued during this period, and we need not have any fear on that account.

The second point is as regards the proposed sub-section (1A)(ii) which refers to "the income, profits or gains which have so escaped assessment for any such year or years amount, or are likely to amount, to one lakh of rupees or more". Here I should have expected the Finance Minister to have given us some indication about the cases under section 5(iv). Whether most of them have incomes of more than one lakh of rupees and if not all of them, what percentage out of them? That information would have been very useful and I fail to understand how this limit of one lakh of rupees or more has been fixed. Of course, the reason given is that at this time it is not fair to harass small income groups. That is the objective. But if really they have made it, should there be still clemency or mercy on our part that they should be now allowed to go scot-free? I agree with my hon'ble friend. Would that again be not just discrimination as the object was to tax them according to law as it existed and they have not declared themselves to be so assessable? Is it not fair, now that we are making this Act, that all those persons, who have not paid and who ought to have paid, ought to be brought in now when the old Act is being amended? It is an ordinary law. Of course we are not bringing in those extraordinary powers that we gave to the Income-Tax Investigation Commission as was complained by my friend, but when we are reverting to our ordinary law, is there any justification that even in this several persons with incomes of Rs. 99,000 should go away? As regards Rs. 50,000......

Shri T. N. Singh: May I ask one question? The hon'ble member was also in the Constituent Assembly.

Mr. Speaker: He can ask the question through the Chair.

Shri T. N. Singh: May I ask it then through you, Sir? The hon'ble member was there in the Constituent Assembly when this Bill was passed, and the words 'substantial sum' were mentioned. Was any objection taken by anybody including the hon'ble member speaking, at that time about the words 'substantial sum'?

Sardar Hukam Singh: The answer is that I was not a member of the Constituent Assembly then. Secondly, Sir, if that was an extraordinary measure which could be put in, it was for a substantial sum. I am stressing that point. Now we are reverting to the normal law. That is the distinction. Therefore, I am justified in asking that now we should not stick to the same figure for only those tax-evaders who have cheated us of immense amounts. We can bring in others also. That is the point that I am stressing at present.

Then again, the second point is about the settlement that has been incorporated in this Bill. I also agree with my hon'ble friend that only in such cases settlement should be allowed who come out with a clean breast. In the beginning some time might be allowed. There have been complaints as was observed yesterday as well. There were settlements. There were perhaps not desirable settlements that we had. There was a cry in the country. Some questions were also put and some people have certain grounds against the way in which that was done. Therefore it is necessary that now if settlements are to be made at least there should be instructions, though by executive authority that only those persons who disclose the truth in the beginning—or a small period might be given—should be allowed to have those settlements if they want to escape with those settlements, otherwise all those person who ultimately get discovered about their incomes, must be treated equally and with sufficient penalties. That is all that I have to say.

Shri C. C. Shah: This Bill has become necessary on account of the judgment of the Supreme Court invalidating a part of the Act of the Investigation Commission. This is the absolute minimum which the Government can do and should do to remedy the position that has arisen out of that judgment. But it will be my submission that this remedy is not enough and will not meet all the consequences that flow from the judgment of the Supreme Court. The Investigation Commission Act was passed under special circumstances to meet with a special situation and that Act has two objects in view and that is what we should bear in mind. Its larger and wider object was to inquire whether the existing machinery of law is enough to prevent evasion of tax and if it has not, to suggest ways and means by which such evasion can be stopped? That is the wider object. The second object was to investigate into particular cases of evasion which the Government may report to the Commission. Now it is the first part, namely, the wider object with which we have not dealt with so far and I will presently come to it. We are dealing at present only with the second part of that object and that too a smaller part of it. Now as regards the cases which could be referred to the Commission, there were two kinds, namely, one in which the Government *prima facie* thought that there has been substantial or large-scale evasion and the Government referred those cases to the Commission for investigation and the second part was that while during the course of investigating those cases, the Commission found any other evasion by persons other than those whose cases have been referred to by the Government, the Commission can make a report to the Government on which the Government again refer those cases to the Commission. Now the Supreme Court has held that the provision relating to the second class of cases, which were referred to the Commission on a report by the Commission, was invalid and this

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amending Bill is brought to remedy that situation only, but, as I will presently point out this Bill as it stands covers not only the cases which were referred to the Commission on a reference by the Commission, namely, under section 5(4) of that Act but it will also cover cases which the Government could have referred to the Commission under section 5(1). The Bill, as it stands, is wide enough to cover both kinds of cases. Now there is already a petition pending before the Supreme Court by an assessee, whose case has been referred under section 5(1), that even section 5(1) is invalid or void and unconstitutional. By its judgment, which the Supreme Court has given on section 5(4), the Supreme Court has declined to express any opinion on section 5(1). But there are enough indications found in that judgment which appear to show that even section 5(1) is invalid. And in the petition which is now pending, probably the judgment of the Supreme Court may be that even the cases referred by the Government under section 5(1) are outside the powers of the Commission and I do not want to express any dogmatic opinion about it. But I take the view that this Act will furnish an added ground for declaring section 5(1) also to be invalid.

Shri Gadgil (Poona-Central): It is *sub judice*.

Shri C. C. Shah: That is why I am only expressing an opinion.

Shri Gadgil: Let us not refer to it.

Shri C. C. Shah: I am only referring to the effect which this Act will have upon that Petition. I therefore presume that in drafting this Bill, probably the view has been taken that even if section 5(1) is declared to be invalid, this Bill will cover even those cases which are referred by the Government under section 5 (1). I believe it does.

Then, if we think that the object of this amendment is to take the work of the Commission and entrust it to the Income-tax Officers under the Income-tax Act, will it carry out that object? My submission is that even though there may be some who will say that these provisions are drastic and so on, probably it will not carry out that object effectively. Under the Income-tax Investigation Commission Act, the Commission has been given wide and somewhat drastic powers of investigation and the findings of the Commission are made final in the sense that there can be no appeal from its findings even to the High Court or Supreme Court. Now, all those powers of investigation which were given to the Commission in sections 6 and 7 of that Act do not appear in this Bill. Therefore, in the absence of those powers, the Income-tax officer can do little to catch those who have evaded the tax on a very large scale. Even with these very wide powers, the Commission could do comparatively little. We can imagine what the I.T.O. will be able to do in the absence of these powers.

Secondly, as pointed out, the findings of the Commission on facts were final. The findings of the Income-tax Officer will be subject to appeal to the Commissioner, the Income-tax Appellate Tribunal, the High Court and the Supreme Court. With all these things, I am afraid,—though I do not see what else can be done by the Government,—

An Hon. Member: Why not?

Shri C. C. Shah: I will presently point out what can be done. This is the least or minimum that the Government can do. Government appears to take the view, considering the second proviso on page 2 of this Bill, that the work of the Income-tax Investigation Commission, in so far as it concerns section 5 should be, so to say, wound up by 31st March 1956. That appears to be the view of the Government. That is to say, no new notice shall be issued by the Income-tax Officer after that period. Presumably, that is a reasonable view to take. Because, ten years would have lapsed by that time since the close of the war and it may not be right to continue investigation any further under this law. Probably that is the view which the Government takes. No doubt, there has been large-scale tax evasion. But, considering that little can be done now, probably, it may be wise to say, let us wind up this part of the work. That refers only to the period between 1st September, 1939 to 31st March 1946 and also in respect of only those cases where the evasion has been substantial. That is what I wanted to point out to my hon. friend Sardar Hukam Singh. That is not a normal machinery. He seems to be labouring under the misapprehension that this is a normal machinery. This is not a normal machinery. This is an abnormal machinery created for a particular purpose which comes to an end by 31st March, 1956. It is also intended to limit its activities to a particular period and to the classes of people therein mentioned, namely, those who have substantially evaded the tax.

Shri Gadgil: They are normal now. Tax evasion is normal.

Mr. Speaker: Order, order.

Shri C. C. Shah: I will come to the second part now. Under section 34, the normal machinery is, where there has been an evasion by an assessee, the assessment can be re-opened within eight years. Where the Income-tax Officer himself gets information of evasion, it can be re-opened within four years. That is the normal machinery. That normal machinery has failed and in spite of that machinery, there has been a large-scale evasion. That is where I come to the second part of the work of the Income-tax Investigation Commission which, I said, is the wider object. The Income-tax Investigation Commission has already made a report in 1951 suggesting radical changes in the Income-tax Act to plug the loopholes. It is my grievance that action has not been taken so far by the Government on the recommendation made by that Commission to stop large-scale evasion. After all, we cannot go on with an abnormal machinery created under a particular Act, Government introduced a Bill suggesting extensive amendments in the Income-tax Act, but that Bill was withdrawn.

The Deputy Minister of Finance (Shri M. C. Shah): It lapsed.

Shri C. C. Shah: I say, apart from particular cases with which Government shall deal in their own way, however much we may make provisions, in spite of all powers, some kind of evasion is bound to remain. We must now create a machinery which will stop that kind of evasion permanently. Therefore, I would urge upon the Government to take immediate steps on the recommendations of the Income-tax Investigation Commission and undertake a large-scale revision of the Income-tax Act as they have undertaken a revision of the Company law. The same problems as we found in the Company law we are now having in the Income-tax Law. We are now having a Company law which is intended to plug the loopholes—one does not know to what extent it will be able to do—found in the administration. The Income-tax Act was passed in 1922. It has been overlaid with amendments and it is one of the clumsiest Acts which a legislature has to deal with, which a court of law or a lawyer or a layman or an assessee has to deal with. It is time that we not only simplify that law, if we can, but also make these amendments which were absolutely necessary by reason of these things.

There is one more observation which I wish to make. By reason of the invalidity of sub-section (4) of section 5, the hon. Minister told us that there were in all 369 cases which were referred under sub-section (4), out of which twenty-six were disposed of before......

Shri M. C. Shah: There was one mistake. It was 32. I am sorry.

Shri C. C. Shah: Thirty-two were disposed before 26th January 1950. In 224 cases there were either settlements or reports. This is what the hon. Minister said "Excepting these 26—now 32—cases, judgment or settlement or whatever it may be in respect of the other cases became valid and unenforceable" Do I understand that even when settlements were made in respect of these cases referred to under section 5 (4), the settlements have become unenforceable? I am afraid that that is not the position. Because, under the section empowering settlement, it provides that once a settlement has been made, it shall not be called in question in any court of law and it is final. The invalidity of sub-section (4), I believe, will not affect this settlement. The total amount involved in these cases was Rs. 5·81 crores, out of which Rs. 2·42 crores have already been collected, out of these settlements. It does not mean that Government is called upon to refund this amount or return this amount.

I shall now deal with one or two amendments which have been given notice of very briefly. One amendment is that instead of a limit of Rs. 100,000, we should have a limit of Rs. 10,000. That amendment, as I said, overlooks two things. One is that the ordinary machinery is there under section 34, if there has been any small evasion up to Rs. 10,000 or Rs. 25,000 or Rs. 50,000. This amount of Rs. 100,000 is not the amount of the tax evaded, but the amount of income on which the tax has been evaded. There is a difference between the two.

12 Noon

Shri Gadgil: What about the income less than Rs. 1 lakh received during this period?

Shri C. C. Shah: If those cases have not been reopened or cannot be reopened under section 34, then they escape assessment. That is true. Now, the point is, under section 34 we have provided a period for reopening such assessments to catch any evasion, viz., four years and eight years. Well, it is the ordinary period provided and is reasonable. Now, to reopen all assessments even though more than fifteen years have lapsed—probably, that will not be fair to the assessees or to the general public, and that is why the Government have advisedly, I submit, kept the limit at Rs. 1 lakh.

The second and the more important amendment is one which seeks to delete lines 19 to 41 of page 2. That is an amendment which seeks to delete clauses (1B), (1C) and (1D) of this Bill which relate to settlement. I do not know whether it is intended that the Government should have no power to settle these cases, or that the Government should not be given the authority to settle these cases. Let us realise that these are extraordinary cases to a certain extent. If an assessee offers settlement and the Government considers the settlement to be fair and reasonable, is it intended that in spite of that we should have no settlement at all? In fact, I consider this power of settlement to be more beneficial both to the assessee and to the Government than the power of investigation itself, because, as I said, even with all the powers which the Income-tax Investigation Commission had under the Income-tax Investigation Act, they could find comparatively little. What is it the Income-tax officer will be able to find without those powers? If, under those circumstances, assessees voluntarily offer settlements which appear to be fair, I think it is pre-eminently a case which should be encouraged, and I would urge that the Government should try its best to arrive at as many settlements as possible, so that we can wind up at least this, what one may call an extraordinary period of these seven years when large-scale evasion took place, and we should go to the ordinary machinery with all the amendments which I suggested.

Shri T. S. A. Chettiar (Tiruppur): Sir, when we were discussing the Estate Duty Bill, one of the hon. Members on that side said that as far as rich people are concerned, they can engage good lawyers, fight out and escape this law. I am only talking for the poor people.

I see as time goes on how true it is. I know a large number of cases where people have voluntarily disclosed. Even they are further troubled. But the very rich ones, the very big ones who can engage the biggest lawyers and go to the Supreme Court, they seem to find that it serves them to go to the Supreme Court.

I am not a practising lawyer and I do not know much of law, but I have heard that the Calcutta lawyers say that this Bill will give them a handle to upset section 5 (1), and if that is so, it is a very bad reflection.

Shri N. C. Chatterjee (Hoogly): Who is the Calcutta lawyer? We have never heard of it.

Mr. Speaker: It is no use mentioning names.

Shri N. C. Chatterjee: Why mention Calcutta?

Shri Gadgil: There are too many there.

Shri T. S. A. Chettiar: There are too many there, and I suppose he who is angry with me in the House may not be angry with me outside the House.

I do not want to deal with it on the legal ground because I do not know enough law to deal with it on the legal ground. But I think in the plethora of legislation we are bringing out day in and day out, there are quite a large number of cases which go to the Supreme Court and get upset. We not only lose those cases themselves, but we lose the morale. The common man who has faith in Government and legislatures finds that the smaller man pays but the bigger man escapes by going to court. It is a premium placed on dishonesty—on large-scale dishonesty, not on small-scale dishonesty. A small man must be honest, but a bigger man who is dishonest on a larger scale feels he can go scot-free. And that I say is not a good condition of affairs in any country. And it is a reflection on the legal equipment that we have in this Government also. Where are those legal experts of the Government who can go into these matters and foresee things and objections which can be foreseen? That is the job of our legal department, and I say that such things should not be too many in future.

Now, let me come to a few clauses. There are two matters which I would like to mention. Under clause (1A) (ii) we find the following:

> "that the income, profits or gains which have so escaped assessment for any such year or years amount, or are likely to amount, to one lakh of rupees or more;".

I do not see why we should fix such a large amount as one lakh of rupees. I readily understand the point made—I understood it only that way—that it refers to the income of Rs. 1 lakh and not tax of Rs. 1 lakh. I agree. But the income of Rs. 1 lakh in this country is a large amount. Out of about ten lakhs of assessees that we have in this country, the number of people who have incomes of Rs. 1 lakh will be very small. The people who are above Rs. 3,600 and above Rs. 10,000 or Rs. 15,000 are by far the largest number, and they are harassed, and if the people who get an income of Rs. 1 lakh are to be left scot-free, I do not think it is proper to do at all. In a poor country like this where the standard of income is so low, I do not see there is any reason to fix this big amount of Rs. 1 lakh as exemption limit under (1A) (ii).

[Shri T. S. A. Chettiar]

Secondly, I would like to know what happens to the cases that have been initiated already? Are they being brought under (IA) (ii), or does it refer only to new cases? That is a thing which I would like to be clarified.

Then, I come to (1B), (1C), and (1D). I entirely agree that the habit and tendency to come to settlement and the ability of the Government department to accept settlements on the basis which they think is fit for the State is something which is given and must be provided for in this law. But I want to ask you one question. If somebody pays under a settlement, but later on if section 5 (1) is also upset, then the cases of those people who come under settlement cannot be reopened, because they have agreed they have to pay, and that payment is made on agreement, and whatever is paid on agreement cannot be reopened. In the present climate of this country and the circumstances under which this Bill is being brought forward and we have a legal opinion from Mr. C. C. Shah who knows something about law that this lends a handle for upsetting section 5(1)—I think there are many people who want to come to a settlement, but they will not like to come to a settlement because those who come to a settlement will suffer, and those who do not come to a settlement may escape. After all, man lives on hopes. While I approve of the provision in (1B), (1C) and (1D), I am afraid that the big fellows who would like to come to a settlement, even they will prevent themselves from coming to a settlement because of the doubts thrown on the validity of this very Bill.

One other matter I would like to suggest—and that is a matter which has been referred to by the previous speaker—and it is this. I have heard it said that the income-tax collected is only about half the amount of what is due to the Government. What is meant is that nearly half the amount gets escaped, is evaded. Tax evasion is being practised to a very large extent in this country. Many of them are legal evasions as somebody puts it. It has been pointed out that one of the objectives of the appointment of the Investigation Commission was to suggest ways and means whereby these loopholes could be plugged. I would like to know what steps have been taken in this direction. As far as we know, and it has been clearly pointed out by previous speakers, no steps have been taken in this direction at all. We want that every man who has to pay tax to the Government must pay. We know how much we need money in this country for our social services, for our industrial development. Even today we have to depend on foreign resources for our planning. It is up to us to collect every pie that is due to the State, especially because today we are so poor and the ordinary level of income in this country is so low. I do not call the ordinary income-tax payer a rich man, but certainly he is above the ordinary man in this country—especially those people who pay large amount of income-tax and those people who evade. I do not mind even raising the minimum taxable limit, but I am very particular that those large income people who professionally day in and day out have more than one account, practise evasion and resort to law in order to help them to evade, must be booked and booked strictly. I would like to know what is being done in this matter. As suggested by the previous speaker, I would also like to suggest that the most stringent measures should be adopted in the matter of plugging the various ways in which evasions could be done, and the needful must be done for this purpose.

One other matter to which I would like to refer is in regard to certain cases of voluntary disclosure. You know that an appeal was made for voluntary disclosure of incomes, and there was a response for it. There were many cases where, I know, certain friends of mine, out of a sense of public duty, thought that they must voluntarily disclose their incomes, and they did disclose their incomes. But their cases have been pending for many many years, and even today no settlement has been arrived at in regard to those cases. It seems as if the people who want to co-operate with Government in this matter are punished more than the people who have the confidence to evade, and who can engage big lawyers and go to the courts, and even go to the Supreme Court. There are not many people who can think of going to the Supreme Court: there are very few who can think of going to the Supreme Court. It is only the clever men and the big moneyed people who can think of these things. It is against those people that the law must be stringent, because it means a large amount of revenue coming to the Exchequer. But it is those very people that are escaping.

I would like to say here that hereafter the law that we bring must be foolproof, and more than that, it must be knave-proof. But that has not been done in the past. Further, we must be sympathetic as far as possible to the lower income groups, while we must be very strict with the higher income groups—I would, therefore, suggest that Government should take into immediate consideration the introduction of a Bill to amend the Income-tax Act, in such a manner that the evasions could be pluged completely.

Pandit Thakur Das Bhargava: I am rather sorry that I have to strike a discordant note. I have heard many Members on this point, and I appreciate the feelings of those who want a change in the law. All the same, I have to submit before you the history of the entire case, how the whole thing has developed, how the circumstances in the country have changed, and whether a change in the normal law of the land is justified or not.

I look at the question from only one stand point, and that is whether it is just to change section 34 of the Indian Income-tax Act. I have gone through the judgment of the Supreme Court, and I take a personal pride in the fact that I found almost all the arguments, which have been adduced by the Supreme Court, in the speeches that I made in this House—all the arguments excepting one which could not be taken at that time, because the Constitution had not been passed. I could not refer to article 14 of the Constitution at that time. Apart from this, I find that every single argument that has been adopted by the Supreme Court was given in the speeches that I made in this House. Even in regard to this matter, namely, that the words 'substantial evasion' were there in section 5 (4), but not in section 5 (1), the argument was given by me at that time.

I opposed in 1947 the Bill which was brought for the purpose of Constituting income-tax investigation Commission. It was on this account that I submitted then that the powers sought to be conferred on the Income-tax Investigation Commission were not enough. That Commission was in the nature of a *divani-adalat*, and I said then that it would fail and that under such an Act, the Commission would not be able to achieve the object Government had in view. To my satisfaction, I found the very next year that Government brought in another Bill in which more powers were sought to be given on the lines I had indicated in 1947. I then said that it was perfectly right to give these powers, if you meant business, and they would be able to achieve something. But the nature of the powers and the exercise of those powers were such that I apprehended that in time to come, these powers which were given for a special purpose would be sought to be ploughed back in the ordinary law of the land, and I was very much

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afraid that the ordinary law of the land would be worsened.

(MR. DEPUTY-SPEAKER *in the Chair*)

At that time, I had the misfortune of differing from many of my friends, including your good self. I submitted then that this Act will not only be bad, but it was sure to wound us vitally, so far as our normal law was concerned, and I see the evidence of that today.

When I heard my hon. friend Shri T. N. Singh, for whom I have the greatest admiration, as he looks at all these questions from a radical standpoint, and from the point of view of the poor,—when I found him advocating that the normal law of the land should be changed, and that all those drastic powers which were given to the Income-tax Investigation Commission in the year 1948 should become a part of the normal law of this land, it took my breath away. If this Act only took into consideration those cases in which it was proved that evasion had taken place, I would have been most glad not only to support this Act but even to support a more drastic Act. I am as much against blackmarketeers, profiteers and those who evade tax, as any other person in this House. At the same time, I feel that all these drastic powers which were necessary and good for catching tax-dodgers are extremely bad, if they are used against the normal assessee. After all, let us examine the equities of the case.

Shri T. N. Singh: How is this going to affect the normal assessee?

Pandit Thakur Das Bhargava: If my hon. friend has seen through this Bill, he will find that it only means this. If this one lakh provision is taken away; all the assessees in the land will be liable under section 34 not only for four or eight years, but for sixteen years.

Shri T. N. Singh: But it is only up to 1956.

Pandit Thakur Das Bhargava: True, the powers are given only up to 1956 in this Bill. But they will be repeated in future. The powers are always taken in this way. First of all, the Income-tax Investigation Commission Bill came, and when those powers were given, we said, all right, for such purposes as catching the tax-evader, you may take any powers you like and then the periods were extended year after year. Now, my hon. friend argues that all these powers of assessment etc. should be given under the ordinary law to the income-tax officer. This is my fear.

This Bill also, as I was just submitting, is not a mild measure, as my hon. friend thinks. Of course, so far as tax evasion is concerned, I am at one with him that in the case of all such persons as have taken undue advantage, this may be made more drastic, and they may be caught by any means, but at the same time, I am alive to the fact that by giving these powers, you put the liberties of the ordinary man also into jeopardy. I do not like it.

What happened then was this. I submitted this also in my speeches in 1948 and 1949—I do not want to read them, because that will be nothing but self-praise. In the year 1947, when Shri Liaqat Ali Khan brought in this Bill, and brought in these proposals, some of us said that they were like bomb-shells to the commercial world. At the same time, it must be said also that the people felt that there was so much of tax evasion in those years that everybody was of the view that it was wrong to allow these profiteers to go scot-free. What happened then? It was not that man who profiteered could be pursued as the cream of the profit was taken by the Government officials. All those Englishmen who were there, and who were, I should say, very honest during the years of the First World War, became all dishonest in the Second World War. And we know that the Government officers took the cream of the profit. They were all bribed, and they got away with the profits either to England or some other place, and they were never taxed.

Mr. Deputy-Speaker: Why not permit the balance to go into the coffers of Government now?

Pandit Thakur Das Bhargava: I am coming to that. You are only hastening me to that argument. This was your argument then also. I remember you were pleased to think then that about one hundred millions of rupees would be recovered, but I submitted that even if five or six million rupees were recovered, I would be most happy. I know your solicitude for the Treasury. My solicitude is the same. I am also of the same view.

Mr. Deputy-Speaker: I am afraid the hon. Member has not understood my remark in good humour. I said the cream was taken away by the foreign Government. Let the milk be taken away by another Government.

Pandit Thakur Das Bhargava: I am coming to that. My solicitude is the same. I want that the Treasury of this Government must be full. Otherwise, where is the sense in asking them to open schools, hospitals and all those things that are being done under the Five Year Plan etc.? Unless the Treasury is full, we are nowhere. At the same time, I do not want that the Treasury may be full by any means except the lawful, except the legitimate means, except such means as are known to law. Now, a person can afford to be even tyrannical towards murderers, tax evaders etc. etc. but that will not be just. The measure of the goodness of my rules and my laws is that I give the worst criminal the best treatment and the best procedure. So far as the law of the land is concerned, so far as the normal law is concerned, I want to make it foolproof. I want that the law should be applied to all equally, whether it is a murderer or only an offender under section 323 of the IPC.

Now, the cream is taken away. What happened to the milk?

Shri T. N. Singh: What about the ghee?

Shri Gadgil: Only water is left!

Pandit Thakur Das Bhargava: Ghee has become *vanaspati*. So far as milk is concerned, I am coming to that. During the years 1939—45, during those six years, and when this Act was in the offing, between 1947 and 1949, people turned that milk into something else. They turned it into diamonds worth Rs. 2000 per tola and buried it under the ground. Some of them got gold and silver. Many of them themselves were speculators. Many of them turned turtle and lost all the fortunes they had got. After 16 years, you want to disgorge them of what they have got. Is it just, is it fair? The circumstances of many of these people have changed; those who were millionaires have become paupers now.

Shri Gadgil: Very happy.

Pandit Thakur Das Bhargava: If you are happy, then you are blessed with your happiness. Do not trouble them any further.

Shri Gadgil: Get whatever is left

Pandit Thakur Das Bhargava: If they are paupers, there is nothing that is left. Then why are you after them?

Shri Gadgil: They must have transferred it to their relatives.

Pandit Thakur Das Bhargava: At the same time, it is not my purpose to advocate the cause of those who have evaded tax and did not give to the Government their due. I cannot, and I do not, stand for them, and there is no intention on my part to say a good word for them. All the same, who is responsible for this state of affairs? Was not the Government in power then? I know our Government was not in power. From 1939 to 1947, another Government was in power, which was encouraging them to do all this black-marketing etc. I know what I am saying. I know the value of my words. I am stating it in all seriousness. I have stated this before; this is not the first time that I am saying it. Now, what happened? All the murderers, all prisoners who were sentenced to transportation for life, almost all, if not many of them, were

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let off in 1947—on the 15th August 1947—because we achieved our freedom and all their faults were pardoned to an extent. What happened to these tax-evaders? An Act was passed, which was absolutely innocuous, in 1947. In 1948, another Act was passed which tightened the grip against them to a certain extent. I was glad that the original date was changed from 31st December to 30th June 1958. Government have referred the cases of some people to the Investigation Commission. So far so good. In regard to section 5(4), it was a very unjust thing. I pointed that out at that time, that it was not fair, that the very authority which found out that a cerain party had committed a crime should be authorised to collect evidence against the tax evasion by the assessee and then report to the Government. So far so good, nothing wrong. But when that very authority was invested with powers to proceed against that man and decide his fate, that was not fair. I suggested then that you might have another Commission to assess the cases of such people against whom a particular Commission had reported. You appoint another tribunal to go into that question, to see that that person disgorged all that he has got. Unfortunately, it was not accepted then. The Supreme Court has on that basis, and other bases, just held that section 5(4) was not good law. About section 5(1), they did not express any opinion. I do not know what is going to happen about section 5(1) subsequently. Anyhow, now really we were concerned with cases in which, according to the Supreme Court, our case was not good so far as this Commission was concerned. In regard to those cases, such cases as were bad, if the evasion took place within eight years then they could certainly be roped in under section 34. According to section 34, if the assessee is at fault, if there is an error or omission on his part, if there is a failure on his part to disclose what he ought to have disclosed and to give good returns, he is liable to the department within those eight years. If the assessee was not responsible, then the income-tax people have got four years in which they can reopen the case.

Now, my complaint is—my complaint was and shall ever be—that the income-tax law of my country invests the Income-tax Department with very plenary powers, with very good powers and if the Department is vigilant, they can rope in a person who fails to obey the law. If a person does not give a good return, he can be proceeded against; if a person does not disclose what he has to disclose, he can be proceeded against criminally. If a person on being asked, does not make good discovery, a right discovery, he can be proceeded against. If he gives a wrong return, he can be proceeded against criminally. My submission is that these powers have never been used.

Now, in 1948, when this Act was being amended, I posed the same question, and very respectfully I submit the same question for the consideration of the Income-tax Department. In how many cases, have you proceeded criminally against those assessees who offended against the ordinary law of the land? A reply was not given and I think it will not be given. The Income-tax Officer has to be, at the same time, not very strict in his Department. He has to deal with people and he also becomes mild to a certain extent. He has both to be strict and to be considerate. That is the difficulty. At the same time, if the law were rightly enforced, I am dead certain that no need for such a Commission would have arisen. I stated then, and I am stating it, now; if instead of playing with the ordinary law of the land, the powers given under the Income-tax Act were sufficiently used, in the right manner, my claim is that you need not have recourse to drastic methods. Is it not true that many of the Income-tax Officers of the Department itself were corrupt and they would not proceed themselves against these people? Unfortunately, this is also correct to a certain extent. Now, times have changed and today my estimate is that our income-tax officers are more honest than before. Now in course of time, we shall see a change in the Income-tax Department. All the same, I know that in those days income-tax officers were also corrupt. They also took some part of that milk.

Shri Morarka (Ganganagar-Jhunjhunu): Mr. T. N. Singh has gone!

Pandit Thakur Das Bhargava: If the whole fault is due to the Department itself, to the non-vigilance of the Department, to the non-use of the powers vested in the Department, then I humbly ask, who is at fault? Why do you tamper with the ordinary law of the land to meet a position which is of your own creation? I would respectfully ask, what has happened during all these years after 1948? Has not the Income-tax Department been proceeding normally and has it not got many cases under section 34? It has.

Now the present law is not directed against those persons only who are proceeded against under section 5(4), whereas the complaint of Mr. T. N. Singh is that other persons are not included in the Bill. As I read it, every person is included in this Bill. This Bill shall apply to all people. Even such people against whom the income-tax people did not proceed under section 5(4), will come under it. I know that the Income-tax Department has, in its solicitude for us, poorer people, enacted a provision "that the income, profits or gains which have so escaped assessment for any such year or years amount, or are likely to amount, to one lakh of rupees or more". This is a sort of sop to us, that we may proceed against all other people whose incomes were more than Rs. 1 lakh.

Shri M. C. Shah: Evaded income.

Pandit Thakur Das Bhargava: Quite right. I ask, is this not discrimination. If I committed a fault and if my brother who had more income than myself committed a fault, are we not in the same boat? This is a question of pure and simple discrimination and it is a sop to the Members of Parliament to agree to the Bill.

An Hon. Member: That means you do not want to have that one lakh limit there?

Pandit Thakur Das Bhargava: I am coming to what I mean. The hon. Member need not put any words in my mouth.

Mr. Deputy-Speaker: I am asking the hon. Member that even in the Penal Code there is a provision section 95, that trivial offences need not be taken notice of. Does the hon. Member mean that they must proceed even below a lakh of rupees; otherwise, even if it is a crore of rupees, he should go scot-free?

Pandit Thakur Das Bhargava: If I were logically to pursue the arguments that have been advanced by you, it would only mean that if there are offences under 302 and 323, which are both offences under the criminal law, then if you do not proceed under section 323, should not proceed against under 302. Evasion of tax is a criminal thing. I think it is not right. But, at the same time, I am submitting that this provision is discriminatory. Why is this discrimination made? This discrimination is made because the poorer people have got no accounts with them today and they are not in a position to pay the income-tax. Even now I do not keep accounts and what to say of the accounts of the years 1938-39? But, there are people who keep acconts but they may not have the accounts of 1939—46. After a certain period or so they have been desroyed, because they never thought that they may be proceeded against in future. You know, after the period of limitation has passed, a very valuable right is secured to the person against whom the limitation runs. According to the law of the land it was eight years and four years. Is it just, now, to extend the period to 16 years from eight years or four years?

According to a provision in the Constitution, we know that if a person has committed a crime and then he

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is subsequently proceeded against after two years, then he can only be punished according to the law of the land as it stood at the time he committed the crime and not at the time he is punished, or according to the law which exists subsequently. Those persons who thought that they were safe and who destroyed all the accounts and who were not proceeded against for the past eight years, can they be proceeded against now, after the expiry of eight years?

Mr. Deputy-Speaker: Does the law of limitation apply to a criminal offence?

Pandit Thakur Das Bhargava: May I humbly submit that, as a matter of fact, there is no limitation in criminal law; and a person who commits a crime today can be legally prosecuted after 20 years. But, in regard to civil things, there is the law of limitation. This income-tax evasion is a civil matter.

Mr. Deputy-Speaker: This is quasi-criminal.

Pandit Thakur Das Bhargava: If it is quasi-criminal, it is not criminal.

My humble submission was that a person who committed this offence 16 years before should not be proceeded against now. I only feel for those who have lost all their accounts, whose circumstances in life have entirely changed. They would have been able to pay the tax if it had been demanded then and, probably, they would have been happy to part with half of their ill-gotten gains (*Interruptions*). Even if they would not have been happy to part with them, we could have got something. Now, many of them have got nothing. If you proceed against them there will be nothing found.

I understand that notice of an amendment has been given which says that if the amount of property is Rs. 50,000 then proceedings should be taken against him. There is some sense in it. If there is property, then we can get something into the Treasury. But, if we proceed against a person who has evaded income-tax to the tune of Rs. 5 lakhs or Rs. 10 lakhs and there is nothing left there, what is the use?

Mr. Deputy-Speaker: What is the harm either? We are not losing anything?

Pandit Thakur was Bhargava: Let us examine this section 2. I should say that it is rather illusory, and the effect of that is not realised. The words are:—

> "that income, profits or gains chargeable to income-tax have escaped assessment for any year in respect of which the relevant previous year falls wholly or partly within the period beginning on the 1st day of September, 1939, and ending on the 31st day of March, 1946; and
>
> that the income, profits or gains which have so escaped assessment for any such year or years amount, or are likely to amount, to one lakh of rupees or more;.."

That means that if there is an evasion of Rs. 13,000 or Rs. 14,000 a year, then also they are roped in. I hope I am correct. I would ask to be enlightened because the words used are 'year or years' and not any specific year. If during the 8 or 9 years collectively from 1939—46, there has been an evasion of one lakh of rupees, in that case he shall be proceeded against.

Shri C. C. Shah: That would be so.

Pandit Thakur Das Bhargava: That means that this one lakh is to be found out after an examination of 16 years of working or at least 8 years..

Shri C. C. Shah: Seven years.

Pandit Thakur Das Bhargava: From 1938—46, perhaps it is nine years.

Shri C. C. Shah: From 1939—46.

Pandit Thakur Das Bhargava: From 1st September, 1938.

The words are:

> "Any year in respect of which the relevant previous year falls wholly or partly within the period beginning on the 1st day of September, 1939...."

It means 1st September, 1938; 1938-39 is included. So my submission is, instead of being 7 years it is more. If all these years are taken into account and the cumulative income is found to be Rs. 1 lakh, then in that case that person shall be proceeded against. This is clearly against the ordinary law of the land contained in Sec. 34. This is discriminatory and may be unconstitutional.

Mr. Deputy-Speaker: Is that the intention of Government?

Shri M. C. Shah: If the evaded income of the whole period or part of that period is Rs. 1 lakh......

Pandit Thakur Das Bhargava: That is exactly so. The words are, 'year or years'. And for finding out if this one lac has been made up full harassment can be caused to anyone apart from illegality of assessing cumulation tax evasion extending over eight years.

Mr. Deputy-Speaker: I thought that something was omitted at the end and it was to mean Rs. 1 lakh per year.

Shri C. C. Shah: One lakh per year would be seven lakhs for that period.

Mr. Deputy-Speaker: Then it comes to Rs. 13,000 or Rs. 14,000 per year.

Pandit Thakur Das Bhargava: If the income during that period exceeds one lakh of rupees—the income-tax for that will be......

Mr. Deputy-Speaker: We will assume that every year he evaded at the rate of Rs. 13,000 or Rs. 14,000, what will the tax on that lakh of rupees amount to?

Shri M. C. Shah: That will be according to the rate.

Mr. Deputy-Speaker: What is the amount that the Government is going to get after all this trouble?

Shri M. C. Shah: It is not the question of trouble. It is that income-tax has been evaded and the evaded income comes to Rs. 1 lakh during this period.

Mr. Deputy-Speaker: The hon. Member has been saying that for the past 14 years he has been saying all this and the Government has not moved. Is the Government going to change in the course of one hour?

Pandit Thakur Das Bhargava: All the same, your advice is to go on with the work, and say what I have to say. Whether the Government accepts it or not, we will have to go on saying. Otherwise, what is left is to go out of the House and pray to God.

Shri Bansal (Jhajjar-Rewari): What is the hon. Member's suggestion, Sir?

Mr. Deputy-Speaker: The hon. Member was saying that he has been holding this view and expressing it on the floor of this House and impressing it on the Government all these years. I was just telling him that in spite of his speeches and persuasions the Government has not moved during all these years and so it is not likely that during the course of one hour it will be moved.

Pandit Thakur Das Bhargava: The Government have moved and have accepted many of my suggestions. In the first instance, in 1947, they changed the law. In 1948, my suggestions were accepted. The suggestions that I made in 1948 then have been accepted by the Supreme Court now. I suggested from my place here to the Government to accept the settlements. After my persuasion for two or three years they changed the law. I suggested to them to accept these settlements and I am glad that it has gone to the mind of the Government. I tried to suggest to them that they should not accept the suggestions of others. When you are settling matters of more than 10, 14, or 15 years ago, it is better to settle them rather than

[Pandit Thakur Das Bhargava]

proceed in this manner. After all, you will be able to realise more and you should not proceed against such people who want to settle and who want to state the right things before you. Some persons have advocated that belated conferences aught not result in settlement; but I submit, this is the proper course to adopt.

I would like the Government to adopt one course now. I want that the Income-tax Law of India, the normal law of the land, be not changed. I am very much opposed to it. Though for the time being you want to say that instead of 8 or 4 years being the period during which an assessment can be redone, you want to make it 15 years or more, this is wrong in principle. Even for hard cases this is a bad law. For a life time a person does not know where he stands.

Shri C. C. Shah:. But, after 1956 it cannot be reopened.

Pandit Thakur Das Bhargava: It is said: 'live and learn'. Who knows what will happen in 1956. A law may be brought in 1955 extending it to 1960. We do not know what will happen in future, therefore you must fight the things as you see them now.

After all, in 1948 when the thing was fresh, we proceeded against very bad cases. Your Finance Minister told me that it may be only about 30 cases in all. Now, it is, perhaps, many times more than that number. I do not, at the same time, complain about it because I know a good amount of money has been taken from the tax dodgers. I do not want that any person should be allowed to get away with the money which really belongs to the people and Government. It is entirely wrong. At the same time this should be confined to such cases as came to your notice under Section 5(4). Further, you originally never proceeded with these cases. The Investigation Commission brought them to your notice. The Supreme Court's judgment awakended us to the necessity of having more powers. Now, we have got the Supreme Court's judgment and we are changing the law; I have no objection to that. But, I would respectfully submit that you should apply these provisions to only such cases which have come to your notice under Section 5(4). There is no law which obliges the Income-tax Department to have recourse to these provisions to all cases and sundry. After all you have to prove evasions for which more powers are needed. As Mr. T. N. Singh said, the Income-tax Department is not armed with those powers. You will find great difficulty in proceeding with the new cases. You have not got those powers which the Investigation Commission had. Your cases will not be successful.

I will, therefore, say: press this law, against 5(4) assessees. But, for God's sake do not proceed with any cases in which the Investigation Commission has not already proceeded. Confine it to those cases only. There is no law which obliges you to apply it to other cases also. You can proceed with any cases where it is clearly proved that the man has gone wrong. I do not want that the ill-gotten gains of such years, if that can be recovered, should not be got disgorged. I am not against recovery. In some countries there is no limitation period at all, whereas we have got 8 or 4 years limitation.

An Hon. Member: Why not we have that?

Pandit Thakur Das Bhargava: We cannot do that. For a long time this is our law. We have accepted it and we cannot at pleasure or at our sweet will change the law in this way.

Therefore, I respectfully submit to confine these provisions to such cases only in which the Income-tax Investigation Commission took action. I do not want that anyone should go scot-free. Because investigation has taken place and it has been proved in those cases to the contrary, it should not be left like that. I will go further and say, that even in such cases in which our highest authority, the Central

Board of Revenues are thoroughly convinced (that the advantage of doubt must go to the assessee) if they are convinced that these are clear cases in which they can recover some money, do proceed against such cases under these provisions. But it must be confined only to such cases, because this is an exceptional measure. This is a measure which we do not want. You also do not want these powers beyond 1956. Therefore, it is but fair that such cases are confined to the minimum.

Now, Sir, I have submitted more than what I originally wished to submit. I hope that the hon. Finance Minister will kindly pay attention to what I have respectfully submitted for his consideration.

Shri Gadgil: Sir, I am still surprised that in the name of civil liberty, then constitutional liberty and ripening of certain rights, dishonest gains are being sought to be protected. This legislation is the minimum as was suggested by my hon. friend Shri C. C. Shah. If the persons are honest they need not be afraid of anything. If they are dishonest they deserve no sympathy, even of my friend Pandit Thakur Das Bhargava as he has made it abundantly clear.

There is no doubt that because of the prevalent law of limitation a man may destroy his account books. That is good so far as his gains are honest; but that plea should not be available for a man who has won lakhs and lakhs of rupees by dishonest means at the cost of the society.

Now, the extended application not merely to the cases which have been covered by the ruling of the Supreme Court but all those who have made gains which can be brought within the orbit of the Income-tax Act, I think, is just and fair. During wartime nobody knows how many crores have been earned by questionable and even positively dishonest means. What I feel is, that this Bill, without the powers that were given to the Investigation Tribunal will not be effective. A policeman without a *danda* or without the power to arrest is either a good receptionist or a mere travelling agent—nothing more than that. How effective these powers were found by the Investigation Tribunal may be illustrated by just one case which I shall read for the information of the House:

> "An assessee who was a doctor by profession and who was engaged in the manufacture of drugs and chemicals during the war period, was tempted to make large profits in utter disregard of the health of the troops to whom his medicines were to be supplied. He used to receive large quantities of sugar and quinine from the Government for the manufacture of glucose and ampules for quinine injection under army contracts, but instead of applying the supplies wholly to the uses for which they were meant he diverted a portion thereof for sale in the black-market, and substituted chalk for quinine and some inferior sweet for sugar. Colossal profits were made by the assessee by this discreditable method. On receipt of reliable information the Commission's staff made a simultaneous raid on a number of premises and seized secret books furnishing incontrovertible proofs of the amounts of profits earned by such illicit means in the shape of cash books maintained in respect of Sugar Account, Quinine Account and globule account etc. Full and complete records were found of the amounts earned and their investment, which exceeded 60 lakhs of rupees. The guilty assessee suddenly died; the money was, however, recovered because his heirs had admitted liability."

Now, what is being given here by way of power except those which are available under the normal law of the Income-tax? Then, a complaint was made by my friend that even the normal powers are not being

[Shri Gadgil]

used. Since these are abnormal circumstances, normal powers will be inadequate. It is necessary that abnormal situations should be dealt with in an abnormal manner and I think these tax dodgers must be completely and effectively collared. If these powers are not given and if you merely depend upon investigation under such provisions of the normal Income-tax Act, the results will not be much.

Then, so far as the question of having compromise or composition schemes with them, my own feeling is that even the compositions or agreements arrived at by the Investigation Tribunal have been more generous and liberal for the parties concerned. I know of an instance in which a man who was reputed to have earned crores of rupees, his case was ultimately settled for Rs. 1,10,00,000 to be paid by such instalments, and it is understood that the instalments were to be paid provided he made some profits in future. Such compositions or agreements are not good. What I submit is that the agreement or adjustment made must have some relation to actual situation to the extent that it can be assessed or ascertained. There should not be any element of gullibility. I am told—and to which a reference was made by Mr. Asoka Mehta—that some merchants in U.P. and other provinces came forward as if in a mood of confession, agreed and some settlement was made, and they profited under that settlement to the disadvantage of us, the general tax-payers of the country. It always the fashion with the rich people and the mercantile community to pick up any slogan that the Government or the head of the Government may utter. The moment Panditji says *Aram Haram Hai*, immediately it will be a slogan for every chamber of commerce, every mercantile association, and all the clever people will repeat it like parrot, because in that atmosphere they can get things done. Similarly when you talk of compositions here and there, immediately they will start shouting those slogans and most of us, who are in a way not very clever and not very shrewd, immediately fall a prey and think that we have made the best bargain out of this. Nothing of the kind. A single penny tainted with dishonesty must be accounted for and there is no time limitation against it. Time limitation may work so far as crime against individuals are concerned, but so far as crime against society or crimes against a community as a whole are concerned, the law of limitation is never applicable. The British Government was here for 150 years. Did it ever claim law of limitation as against our claim for freedom? If it was not valid then, in the name of the Indian community which has been put down and exploited by the Indian capitalists and the Indian mercantile community I have a right to demand that the law of limitation, so far as the recovery of dishonestly earned money, is concerned, cannot be made applicable.

Pandit Thakur Das Bhargava: It relates to the period upto the 31st Macrh 1946.

Shri Gadgil: Therefore, I am with you that it should be till 1976 till the last assessee leaves this world and he will have then to pay estate duty. Unless effective powers are given to the investigation tribunal, this Bill will not serve much purpose, and we may say to our own conscience that because the Supreme Court gave a certain ruling, we immediately came with an ordinance and now we are enacting for the ordinance a regular piece of legislation. That will not do. There is no case for soft treatment with these people and no treatment can be hard enough for these people. We are talking about big things and when it comes or taking concrete action, we develop cold feet. It is much better that the normal law of income-tax is made much stricter on the lines recommended by the Investigation Tribunal. I do hope that with the additional provision, namely, of giving adequate powers, this Bill should be passed and the Government should be requested by Parliament to come in with a more comprehensive Bill for making the normal income-tax Act much more effective.

Mr. Deputy-Speaker: The time has been fixed for this Bill also and, therefore, hon. Members will please bear that in mind.

Shri N. C. Chatterjee: I am afraid we are digressing a bit from the scope and object of this Bill. I take it there is no one in this House who would at all champion the cause of tax-evaders or would like anything to be done to make the collection of the just dues of the State difficult or impossible. What is the Bill that we are now discussing?. From the Statement of Objects and Reasons, it is clear that it is being introduced in the House because the Supreme Court has held section 5(4) of the Act to be *ultra vires*. Hereafter those cases which were referred to the income-tax Investigation Commission under section 5(4) would escape taxation if the ordinance had not been passed and if this Bill had not been placed on the statute book. Therefore, we all expected that after the Supreme Court's judgment, there would be some kind of legislation placed before the Parliament, and I also expected that this Bill would be given top priority and we would have a chance of discussing it earlier but the Special Marriage Bill came in the way and the Business Advisory Committee gave this Bill top priority after Marriage Bill. Immediately that Bill was over, we have taken up this Bill.

I am sorry that a distinguished friend of ours said something which really is derogatory to the Supreme Court of India. He said that big people engage big lawyers and they go before the Supreme Court of India pleading all sorts of things. Nothing of the kind. If my hon. friend had only taken the trouble of going through the judgment of the Supreme Court, he would have found that the Supreme Court has laid it down clearly that "they would have upheld section 5(4) as valid if the language had been made clear and if there had been a rational and valid classification". I have that judgment before me. It says—

> "The learned Solicitor-General combated all these arguments and contended that the Act was based on a broad and rational classification, that it only dealt with a group of persons who had evaded income-tax from the beginning of the war, 1st January 1939, to the period ending with 1st September 1948, as a consequence of war controls resulting in black-marketing activities and huge profits."

No one in this House would at all encourage or allow anything to be done to help war profiteers escaping their due share of taxation. The Solicitor-General of India said that this Act was really meant to deal with that group of persons, the war profiteers, and those people who evaded taxation. The Chief Justice and the other learned Judges stated that if that had been made clear in the statute, then there would have been no difficulty in upholding this section as *intra vires* and perfectly consistent with the Constitution of India. The Supreme Court has held that on a plain reading of the section, that is section 5(4), it was not limited only to persons who made extraordinary profits or war profits, etc., and who had evaded payment of taxation on income, but it applied to all persons who may have evaded payment of taxation on income. The language of section 5(4) does show that even if a man had evaded Rs. 10 and even if there was a correct return but there has been a wrong calculation on the part of the Income-tax Officer and therefore he paid Rs. 10 less, even then section 5(4) could be invoked in that case.

Pandit Thakur Das Bhargava: I pointed out this also at that time.

Shri N. C. Chatterjee: That is what Chief Justice Mahajan also pointed out. It also offends against the guarantee of equal protection of the laws given in Article 14 of the Constitution. The judgment says—

> "The State can by classification determine who should be regarded as a class for purposes of legislation......Classification means segregation in classes which have a systematic relation, usually found in common properties and characteristics."

1 P.M.

The learned Judges were of the opinion that Government had made no such classification. Therefore, you are guilty of discrimination; you are guilty of not making a rational classification. As you know, rational classification simply means segregating into distinct classes based upon certain distinct features and having certain differential or criteria which are of a reasonable nature. The Supreme Court has only said that if this has been made clear that it was meant for profiteers during the particular period, they would have upheld it as legal. All that I am respectfully submitting to this House is that the House should give the power to the income-tax authorities to get at those people; according to the Solicitor-General these are the people the war profiteers who were to be hit at by this Income-tax Investigation Commission Act. I submit that there should be no objection to this legislation, if that is so. But there is a good deal of force in Pandit Thakur Das Bhargava's point. When you are enacting this law for the purpose of improving the situation created by the Supreme Court judgment, you should read the Supreme Court judgment and legislate for that contingency. What the contingency......

Mr. Deputy-Speaker: Are these not now restricted to this period—the war period—from 1939 to 1946?

Shri N. C Chatterjee: If the hon. Finance Minister—unfortunately he is not here but the Deputy Finance Minister is here—if he says that this Act is going to be enforced against those people, against the cases recommended or proceeded against under section 5(4) I will be prefectly satisfied and I think that Pandit Thakur Das Bhargava should be satisfied. If I may give you the figures—I hope my figures are right —under section 5(4) of the Income-tax Investigation Act, 369 cases had been instituted. Out of them, 224 cases have been disposed of and the Income-tax Investigation Commission found that Rs. 5½ crores are involved. Of these Rs. 2 crores have already been collected. If it is the intention that the balance of Rs. 3½ crores ought to be collected, it is our duty to clothe Government with that power but no further. (*Interruptions*). All that I am submitting is that Government had this power from the year 1947......

Mr. Deputy-Speaker: May I ask the Government whether it is the intention to look into new cases?

Shri N. C. Chatterjee: Yes, Sir.

Mr. Deputy-Speaker: At the time of the passing of the Investigation Act or shortly after the date some cases were placed by the Government before the Commission. At that time with very great difficulty it was acceded to. After so many years, is it the intention of the Government now to rope in cases which were not thought of then for which provision was not made later on?

Shri N. C. Chatterjee: We should like to know from the hon. Minister so that we do not take up the time...

Shri M. C. Shah: The law stands. We have to go by the law. According to the law, the Department will be entitled to take action in all cases subject to the limitations of the law passed.

Shri N. C. Chatterjee: That is not fair. I submit with great respect to my hon. friend that you had been investigating for over seven years from 1947. You had made up your mind. The Income-tax Investigation Commission under section 5(1) had taken cognisance of certain cases. Under section 5(4), if in the course of investigation, they found out that other cases were involved they made a recommendation or report to the Government. The Government issued orders: 'you take action under section 5(4)'. In the course of these years they have made up their minds and the Commission had recommended action in 369 cases and the Government allowed the Investigation Commission to proceed under section 5(4). 224 cases have been disposed of completely Rs. 5½ crores were altogether involved. Over Rs. 2 crores have been collected. There may be difficulties created in the collection of the amount. Therefore, they are taking power to see that nothing should be done with regard to the balance. I am perfectly willing and every hon. Member of the House ought to be willing and ready to give power to the Government. But is it fair, is it just or reasonable now to enlarge the scope and ambit of the Bill?

Justice Varadachari who was Chief Justice of India and Justice Chakravarty of the Calcutta High Court and other very responsible persons who had been dealing with these type of cases had gone into the matter for years and had recommended 369 cases to be taken up. They have disposed of more than two-thirds of them and they were dealing with the balance. I am perfectly willing that the Act should be confined to them. But you should not take power to cast the net wide and say: I will go into other cases. It is a great hardship......

Shri T. N. Singh: You want to discriminate in favour of those who have escaped.

Shri N. C. Chatterjee: I am not for any discrimination. I am pointing out only this. Mr. C. K. Daphthary who was the Advocate-General of Bombay and who is one of the ablest Income-tax lawyers this country has ever produced and who is the Solicitor-General of India, stood up on the instructions of Mr. Deshmukh, Mr. Shah and the Government of India and he told the Supreme Court Judges: it is our intention; we want to take action against the profiteers against whom these recommendations have been made and whose cases the Investigation Commission have gone into or are going into. All that I am pointing out is that the Statement of Objects and Reasons is saying that they want this Bill to be passed by the Lok Sabha and by the other House of the Parliament and to place it permanently on the statute book so that these people who were within the ambit and scope of section 5(4) should not escape. I am perfectly willing and I appeal to the House to give that power but no further......

Shri T. N. Singh: Why not?

Shri N. C. Chatterjee: I submit that if you say so then you are defeating your statement and the object of the Bill. It is to legalise those things which have been rendered illegal. This Act after seven years has been declared illegal. You should not now enlarge its scope. I say so not because I am making a technical approach or a legalistic approach. Under section 34, I am quoting Kanga, 'Power to take proceedings under section 34 is not confined to cases where the assessee had concealed his income. It also extends to cases where there has been no concealment. If the Income-tax Officer has made any mistake or there has been some defect on the part of the revenue authorities and the assessees have been under-assessed, even then section 34 would be invoked. Would it be fair to cast a net wider not merely to hit at the profiteers but some other men also? There might have been some miscalculation or re-allocation, and the assessee may have to be in a higher slab. You are roping in these people.

My learned friend, the hon. Deputy Minister, has candidly told us of the

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intention. In these eight or nine years, there have been ten or twelve thousand cases. You know we had changed sec. 34 of the Act twice or thrice: once in 1939 and then in 1948. We have now got section 34 in an amended form. This legislature had conferred very wide powers. You know after the Privy Council judgment, the law was changed. I think it was in 1940 that the Calcutta judgment, was reversed. "Escape assessment" is a very wide term. It may bring in any assessment, even earlier assessment. It may bring in even the relief granted for depreciation etc. to which the assessee may not be entitled.

I am pointing out it would not be fair now to allow these cases to be re-opened. The object of the Bill is to validate section 5(4). Validate it by all means. Give the Government complete power. Give the revenue authorities complete power. The Supreme Court had stated that if the intention of the Parliament had been clearly expressed then we would not have invalidated sec. 5 (4). The intention should be clearly expressed. Tell the House and the country that it is not the intention to use it as a yardstick to hit all and sundry but really to hit at the war profiteers who were to be roped in under section 5(4). Why expand the scope of this legislation? Why do it in such a manner as could create hardship? Firstly, the income would not be really substantial. The argument that was put forward all the time was that the amount would be substantial. But Rs. 10,000 or Rs. 12,000—would that be substantial? If it is ten thousand or twelve thousand rupees a year, would that be 'substantial'? Would you now rope in people and ask them to produce their books for 1939, 1940, 1941 and so on in 1954—people who had never been given any notice by Justice Varadachari, Justice Shastri or Justice Chakravarti or anybody on behalf of the Income-tax Investigation Commission,—in 1955 or 1956? Is this your sense of justice? You have a giant's strength. But should you use it like a giant, because the sovereign Parliament has given you the power? I am submitting it is not fair, nor equitable. What you have got under section 34, use it, apply it rigorously, without discrimination.

What is the law? In the case of fraudulent concealment, limitation is eight years. Perfectly good. In the case of honest mistakes either on the part of the assessee or on the part of the revenue authorities, four years. Even if there has been not full assessment levied on account of mistake on the part of somebody, would it be right to call upon that man to produce his books and say "you have not produced your books, you are dishonestly withholding your books", and harass him? Would that be right?

Naturally you can say, a certain amount of prejudice is there, because some people have evaded tax, and you can say you are deliberately withholding books. It would not be right to clothe the authorities with this power. Under section 23A, in the case of companies, up to 60 per cent you can distribute, after that there may be difficulty with regard to shareholders for no fault of their own, there may be so many complications.

Therefore I am suggesting that the Government should state clearly to the House that the purpose of the Bill is to validate the provisions declared invalid by the Supreme Court. And stick to what the learned Solicitor-General of India stated on behalf of the Government of India and the Supreme Court indicated, namely, "Put the clause in a law to make it clear". That is why we are assembled here and we should pass that law.

The next point I would respectfully submit for the consideration of the hon. Deputy Minister and also this House is, why do you put in that clause that no notice shall be given after 31st March 1956. If you kindly see, the clause says "Provided further that no such notice shall be issued after the 31st day of March, 1956". Why?. The Income-tax Investigation Commission Act was passed in 1947. Then you know how stage by stage we extended it by one year and with what difficulty. As a matter of fact, you know the Investigation Commission Act not only acted very harshly on people who were dishonest but it also acted harshly on people who were not dishonest, because you sent in an authorised investigator. And I am submitting that you should not give this power. You know all the cases. From 1947 you have been sitting on the file, and during all these years, 1948, 1949, 1950, 1951, 1952, 1953 the Investigation Commission had been ransacking the records. They have completed their labours and they have finalised the list, and going through the list they have finished 65 per cent of the cases. You know all the cases. Then why take the power that "no such notice shall be issued after the 31st day of March 1956"? I submit you ought to specify a much shorter time-limit and finish with your accounts. Under section 34 they have the printed notice and they can easily serve it within seven days. They have a complete list. This House should not be justified in giving an unrestricted charter to these people to rope in other people who were completely outside the scope and contemplation of the Legislature when enacting the Income-tax Investigation Commission Act.

Shri T. N. Singh: The House is in favour of extending it still further.

Shri N. C. Chatterjee: You are not the House, I am not the House, the House means the collective judgment of all.

I am also pointing out that this power of settlement ought to be there.

Mr. Deputy-Speaker: This rule about four years or eight years applies not only to cases of war profiteers who evaded tax but to all persons? Therefore, if it is only extended by some more years, what is the objection to extending it to all persons? The section that is sought to be amended is 34 whereby an assessment which has been completed a long time ago can be reopened on account of fraud, etc., in particular cases within four years, in other cases, where more heinous offences have been committed; within eight years. All that this intends doing is to increase four years and eight years respectively to some periods within 1956.

Shri N. C. Chatterjee: Seventeen years or eighteen years! It is not right.

Mr. Deputy-Speaker: It is sought to be extended from four to six years, or from eight to ten years. Why should we bring in war profiteers here?

Shri N. C. Chatterjee: I am pointing out that this was the intention. According to the clearest possible declaration of intention on the part of the Government, I submit that was the object. Simply because it had been invalidated and you are taking powers from Parliament to validate that *ultra vires* legislation—which means, as you know from the great case of the Patna High Court affirmed by the Supreme Court, that it is completely effected from the statute book and you have to validate it afresh—validate it, but would it be fair to go beyond it? Suppose an ordinary business man has made some mistake. You know that the ordinary period of limitation for recovery of arrears or dues or damages, if it is an ordinary business contract, is three years, and if it is a specially contract it may be six years. The statute says three years plus one year. You have four years, and afterwards there is no obligation. But to bring in now an ordinary businessman and say you have escaped...

Mr. Deputy-Speaker: Has the Investigation Commission made any recommendation that this should be extended generally to all cases?

Shri N. C. Chatterjee: No. As a matter of fact you have got the Investigation Commission Report. And you know under section 5(4) only those cases are taken up in which recommendations have been made. The language of section 5(4) is this:

If in the course of investigation into any case referred to the Investigation Commission under sub-section (1) of section 5, the Commission has reason to believe that some person other than the person whose case is being investigated had evaded payment of taxation, or that some points other than those referred to it by the Central Government in respect of any case also require investigation, then the Commission may make a report to the Central Government stating its reasons for such belief, and on receipt of such report the Central Government can take action, and then the Investigation Commission starts investigating into those cases.

Now, in the course of investigating the cases under section 5(1) that you have referred to the Commission in 1947-48, they have discovered these 369 cases. And under section 5(4), having been thoroughly satisfied that in these 369 cases there has been evasion of taxation substantially, they had made a report to the Government, stating their reasons, and on that the Government had ordered them to take action. Therefore they are proceeding with those cases. As I said, 224 of them have been disposed of and about 150 are pending. In respect of the cases disposed of the amount levied or settled ought to be realised. In respect of the 150 pending cases the Investigation Commission cannot function, but the revenue authorities should function. But no further. And the Commission never wanted that further power should be given to rope in other people. They have never complained that "we have not been able to discharge our duty under section 5(4), therefore our investigation is incomplete". They said "we will complete all our labours"—that means those that were originally referred to them under section 5(1) or those that were referred to them under section 5(4) as a result of *their* preliminary report. Therefore, this Act was meant to be all-pervasive and covered not only those cases that were initially referred to the Commission but also those that were referred to the Commission at a later stage at the instance of the Commission itself. My friend said that section 5(4) was not proper because they had made up their minds and were in the position of an accuser. That is a different point. I am not talking about that at all. I am saying accused or no accused. Men like Mr. Justice Viswanatha Shastry, Justice Chakravarti and Justice Varadachari have decided that there is a *prime facie* case that investigation should be completed. You cannot go beyond that period. We should stop there.

Shri Bansal: Sir, I consider this Bill as a innocuous piece of legislation arising out of a lacuna caused by our Supreme Court's decision. I am afraid I am not one of those who are in a position to work themselves up and bring out in the course of this debate issues which are quite irrelevant in my judgment to the particular Bill we have in hand at the moment. I agree with my friends like Shri T. N. Singh and Shri Kaka Saheb Gadgil that tax evasion should not be encouraged and that tax evaders must be dealt with severely. But I am afraid this is not the occasion to say all those other things because here we are dealing with a particular situation created by the judgment of the Supreme Court.

Shri T. N. Singh: The Chair in its wisdom has allowed a certain thing as relevant. Is it open to a Member to question its relevancy now?

Mr. Deputy-Speaker: I don't think it is a question of relevancy. He is only appealing to the House not to take notice of it.

Shri Bansal: I am sorry that although I sat and listened quietly to the speech of Shri T. N. Singh when he was speaking, he is not desisting from interrupting. But I must point out, Sir, that some of his references to the Supreme Court decisions were not in keeping with the dignity which we have ourselves given to that august body. After all, what is the discrimination that the Supreme Court was pointing out? It was the discrimination which, according to them had crept in an Act which was enacted by this House of Parliament and after all the Constituent Assembly in their wisdom clothed the Supreme Court with certain powers and the Supreme Court in its exercise of those powers was absolutely justified in pointing out any defect that crept in that particular Act. I will read out a particular passage from the judgment of the Supreme Court where they refer to this point of discrimination.

Referring to section 5(iv) the Supreme Court says:—"A person who has evaded payment of income-tax and is proceeded with under Section 34 and is held to have escaped income has a right of appeal to the Appellate Assistant Commissioner of Income-tax and can challenge all the findings of fact given by the Income-tax Officer. If he does not get relief from the Appellate Assistant Commissioner, he is entitled to go before the Appellate Tribunal under Section 33 and can challenge all the findings of fact given by the Income-tax Officer. On the other hand, a person dealt with under Section 5(4) of the impugned Act has no such right. The learned Solicitor-General contended that the constitution of the Commission was such that it was a good substitute for the rights of appeal, second appeal and revision conferred by the Income-tax Act inasmuch as the Commission is comprised of a High Court Judge and two other responsible persons and these sitting together were as good a tribunal as the totality of persons comprising the Income-tax Officer, Appellate Assistant Commissioner and the Appellate Tribunal. In our opinion, the constitution of the Commission by itself cannot be held to be a sufficient safeguard and a good substitute for the rights of appeal and second appeal and revision given by the Indian Income-tax Act and there can thus be no doubt that the procedure prescribed by the impugned Act deprived a person who is dealt with under that Act of these valuable rights of appeal, second appeal and revision to challenge questions of fact decided by the judge of first instance."

Sir, it was this type of discrimination that the Supreme Court pointed out and after their judgment it was but the duty of Government to fill in the lacuna and all that this Bill is supposed to do is to fill in that particular lacunae. Now, Sir, my difficulty is only this, as was eloquently pointed out by Shri Chatterjee, that while under the Income-tax Investigation Commission Act, until the time it was challenged in the Supreme Court, only those cases could be referred under section 5(iv) about which the Income-tax Investigation Commission had found out some evidence that these cases have escaped Government notice, under the present amendment all and sundry cases can be opened up

Shri A. M. Thomas (Ernakulam): It is not an innocuous Bill then!

Shri Bansal: No, you just listen to me. The point is this. I am not opposed, on any ground of principle, to reopening cases, even for ten to fifteen years, if it is definitely ascertained that substantial incomes have evaded the payment of tax but my difficulty is this. How is the Income-tax Officer today going to say that such and such person might have evaded income-tax because the four-year period and the eight-year period have passed now? Because after all, he is going to refer cases only of the period between 1939 and 1946. He is going to re-open the

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cases only of that period. He has no means of knowing as to which particular persons' cases must be opened. Out of vendetta, he may open the case of Mr. T. N. Singh and Mr. Singh will have no evidence to produce to satisfy that Income-tax Officer. I do not know whether he keeps any books or not. Even if he kept any books, he would have destroyed them. No one is supposed to keep records of more than four or five years. I do not think anybody can oblige any person to keep them for an indefinite period. If all the records were to be kept, I think the drawing rooms and bed rooms of my friends will be full of records and nothing else. Therefore, if the Income-tax Officer has any relative ground on which he can suspect a particular assessee, then I am quite satisfied that he should be allowed to open that particular case.

Mr. Deputy-Speaker: For general discussion four hours were allotted. He started at 3.03 p.m. and now we have 1½ hours more. Mr. Gandhi was to speak. Mr. Basu wants to speak and so many others also want to speak.

Shri Bansal: There is still one-and-a half-hours more, Sir, I am not going to take much more time.

Mr. Deputy-Speaker: How much time will the hon. Minister take?

Shri M. C. Shah: I will take half an hour.

Mr. Deputy-Speaker: The Minister wants half an hour. Yes, he can have half an hour. I will ask him to start at 2.35. Now we will have one hour more. I will allow ten minutes to each hon'ble Member.

Shri K. K. Basu (Diamond Harbour): Those who spoke earlier had thirty to thirty-five minutes each. Now you are restricting the time to ten minutes.

Shri U. M. Trivedi (Chittor): I would also like to speak.

Shri Kottukappally (Meenachil): Sir, I would like to speak on this Bill. I have been in this House for the last many months and I have not been called at all.

Mr. Deputy-Speaker: He wants to make a maiden speech. A maiden speech need not be made only on the Income-tax Act.

Shri Kottukappally: This is the first time I am rising.

Mr. Deputy-Speaker: I agree. I shall try and give him an opportunity on some clause.

Shri Bansal: Therefore, Sir, my fear about this particular provision is that it might be used by some Income-tax Officers in an improper manner. I would like the Government therefore to give an assurance on the floor of this House that powers taken under this amending Bill will be exercised only in these cases which either have been brought to the notice of Government by the Investigation Commission or on which Government themselves have some *prima facie* evidence that substantial amounts of tax have been evaded. That is why I said in the beginning that if the Government exercises due care in referring the cases to the Income-tax Officers and keep a proper check on them, not to open all and sundry cases without substantial grounds, not much harm will be done. I think it is the general intention of the Government not to open each and every case, but to proceed only in those cases where, to the best of their knowledge, to the best of the knowledge of the Central Board of Revenue, substantial taxes have been evaded.

Pandit Thakur Das Bhargava: They require the sanction of the Central Board of Revenue now in this Bill.

Shri Bansal: That may be a safeguard and I think that the Government would do well first to go into the *prima facie* evidence carefully before authorising the Income-tax Officer to proceed.

My second point is that while in the Ordinance. there were only two sections, in this Bill, another clause has been added. The purpose of this sub-clause 3 is to authorise investigation in the case of section 23A companies. So far, under the sub-section (4) of section 5, the position was that only the accounts of the private companies or private firms could be again looked into. That is to say, the assessment could be re-opened only in cases of those particular companies. By this clause 3. Government are empowering the Income-tax Officers to proceed and investigate into the income and books of individual partners and members of the companies. I think this will act as a great hardship on those individuals because it is quite likely that the partnerships have been broken long ago. It is also likely that in many cases sixty per cent. of the income might not have been distributed. Therefore, I would suggest that this clause 3 may be dropped from this Bill.

I do not have much more to add. I again repeat that if the Government exercise due care in referring cases to the Income-tax Officers, not much harm will happen and the Amending Bill will not be open to such serious objections as were pointed out on the floor of the House.

Shri K. K. Basu: This is a piece of legislation which has been brought forward in this House as a result of a decision of the Supreme Court. I am glad Government has tried, to whatever limited extent it can, within the limitations of this own sociological theories, to improve matters. As a matter of fact, as some Members have already said, the Government should have taken more powers. It is unfortunate that persons like Shri N. C. Chatterjee and other had tried to justify their opposition to this legislation on the basis of the recommendation of the Income-tax Investigation Commission. I would urge upon them to read the first report of the Commission, which was composed of Justice Varadachari, Justice Chakravartty and Shri Mozumdar. They have deliberately quoted examples after examples of the ingenuity of the tax evaders. One example has been quoted by Shri Gadgil. There is another very significant example. You know very well, that they have said that it is always found that the relevant entries are either eaten up by white ants, or the particular books lost or burnt. Government should have come forward with an amendment of the Income-tax Act with a view to plug the holes. Government came forward with some amendment when the new Parliament came into being. That only related to the provisions relating to the impounding of documents. This is our complaint against the Government. As yet, the Government is soft with the tax evaders and black-marketeers. There is no point in saying that in a particular period, in the British days, it was with some sort of national feeling that they had to evade the taxes. Here the Government have taken oath under a Constitution which guarantees certain social equalities, and which contains Directive Principles seeking to improve the social conditions, of a large majority of the citizens of India. It is our duty to see whether these people are anti-social or working against the interests of the nation. If it is so, it is no point to say that in 1947, the then Parliament or legislature decided that these cases should be sent to the Commission by 1948 and no further action was taken. It is within the competence of this sovereign Parliament even in 1955 to take action, if they think that there are in our country people who by their ingenuity are tax evaders or tax-dodgers and they should be brought to book. That is our complaint against the Government. The Prime Minister, when he was released from Jail in 1945 said that every black-marketer should be hanged in the next lamp post. We have yet to

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see the translation into action of such noble ideas.

Pandit K. C. Sharma (Meerut Distt.—South): He would have hanged; but you came in.

Shri K. K. Basu: I wish you also support this proposition.

Mr. Deputy-Speaker: Whenever you use the word 'you', it applies to me.

Shri K. K. Basu: We never use it towards you. We wish and we are sure that when you also see eye to eye with our ideals, the country will improve. This is our grouse against the Government. Some people raise the cry of civil liberties. What are civil liberties? They must be consistent with the necessities and demands of the community. If the community demands that there shall be confiscation of property without compensation, this sovereign Parliament is competent to make that legislation. Today we have brought some legislation which, in the exigencies of the situation, or according to the theories of the party in power, meets the needs of the community. Tomorrow, a new Parliament may come and the new Members may differ in their norms for running the Government and it may be necessary to re-open these cases. There is no reason for objection to this Bill. It may have been that in 1947, the then Constituent Assembly, as it was constituted thought, well they have evaded, let us try to rope in as far as possible and haul them before the Income-tax Investigation Commission. Today, we want that every tax evader, whatever the amount may be, if he is an anti-social being, should be brought to book and it is the duty of the Parliament to legislate. There is no question of limitation in hauling them up. We have no objection to honest persons who have by mistake done anything being shown concessions. The power is given to the Central Board of Revenue to consider whether the mistake is *bone fide*. Our complaint is that we still find a softness in the Government to these people. If as Shri N. C. Chatterjee said,—I have not read the judgment on the specific instructions of the Finance Minister, Shri Daphtari said, our idea is only to get hold of some substantial evasions committed before 1946, it is wrong. It is time that the Finance Minister should be told that this Parliament does not endorse his point of view. Time will not permit me, as you have said, and I will briefly try to show to what extent evasion is there. Sometime back in the State Assembly of West Bengal, it was said that persons like Birlas and Surajmals—names were mentioned—have evaded tax. I do not know what is right. If it is not wrong, it was for the Government to come forward and say so. Excepting the usual statement, you give in reply, we shall look into it, nothing was done. It is seen that at the invitation of these big shares who have ingenuity and tremendous resources and who have evaded lots of money, big personages in the country including the Prime Minister go and attend their functions. The feeling of the common man, as Shri T. N. Singh was telling in the morning, is that the Government is soft to these people who, even under the present limited laws, should be considered as anti-social beings. This is my complaint against the Government. This softness must be put an end to. If they think that these people should be given a free hand, let them come openly before the people and say, we accept the proposition that these people should not be touched. But there is no point in taking oath to the Constitution which contains noble principles, ideologies and directive principles, but in your action you do not follow them. This is the complaint. And that is why I say Government should not be so soft.

Some of the Members have tried to rely on the theory of individual liberties. The days of Jeremy Bentham are gone. The days of *laissez faire* are gone. What is civil liberty? Civil liberty must be considered in the context of the necessity and interest of the society and the community. You cannot have the liberty which was in existence five hundred or two hundred years ago. It may not have the same connotation today, because things have changed. When the Zamindari Abolition Bills were in the different legislatures, the landlords came forward and said: "Our vested rights, our noble rights of property are being touched". In West Bengal Lord Cornwallis introduced the Permanent Revenue Settlement. I will not go into the history of it. And when the Zamindari Abolition Bill came, the landlords came forward and said: "Why are you touching us? This is our noble right."

Apart from going into the merits of the case, if today the Government thinks that these rights must be extinguished in the interests of the community, they are quite competent to do so and I think it is their duty to do so. Therefore, I have said that in this Bill the Government has tried to expand to some extent the scope they had under the particular section in the Income-tax Investigation Commission Act which has been invalidated by the Supreme Court.

I fully endorse the view of Mr. C. C. Shah and Mr. T. N. Singh that even the powers that are there in the Income-tax Investigation Commission Act is not there. I do not say anything against the Supreme Court or any personages, but we know that this right of appeal and second appeals and going to the courts and other tribunals may lead only to many niceties and legal complications which may to some extent, flout or negate the principle or the theory on which the legislation is made. Therefore, I would have wished that the report of the Income-tax Officer or whoever it may be must be the last word on the enquiry so far as the facts are concerned, and I would have further wished that Government had brought forward a comprehensive amendment of the Income-tax Act. As one of the Members put it—I forget who said it—it is high time that the Income-tax Act is amended and the loopholes are plugged.

I remember when I came to Parliament first, Mr. Tyagi—he was then Ministe of State for Revenue and Expenditure—said that his Department itself, had pointed out that there were various British business houses which took advantages of the lacunae and loopholes in the law, and that somehow or other they evaded paying taxes which the Government was entitled to. We have charged the Government time and again. Now three years have passed. They are in a position to get through this House so much legislation; reactionary legislations they get through. We know the Criminal Procedure Code (Amendment) Bill was introduced only during last session, and it will get through in the next session. But why has not the Income-tax Act been amended when the department itself had reported four years back? During the Question Hour several questions were put regarding evasion of tax and why has Government not come forward with an amendment to the Income-tax Act, so that the just claims of our Government, which our Government is entitled to from the persons who earn here, may be enforced. Therefore, I feel this Government's softness should be plugged in. They should come forward with an amendment of the Income-tax and the sooner the better.

I have also placed before Government—I do not know, it is often talked about—about this exemption from income-tax for contribution to special funds like Gandhiji's Memorial Fund or Kasturbha Fund. They are sometimes dealt with softly. I have no grouse. Possibly these funds were created for a good object. I do not know how they are utilised. A large section of citizens, the smaller assessees have got this psychological feeling that the big

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people, the big sharks go and contribute, and naturally they are more friendly with the high-ups in the income-tax department, and thereby they evade taxation. (*Interruptions*). One of the persons in a very big industry said at a particular meeting "What shall we do? How many Ministers come and ask us to contribute so much to this fund and that fund? We have got to do it. Naturally, we have got to oblige the Ministers." I do not know whether that has any repercussions on the assessment of that particular person concerned. This has been repeatedly alleged. Time will not permit me to quote from certain books. In certain books that were published in Bengal—"Mysteries of Birla House", for instance—facts were given (they have not been contradicted) to show that these people are softly treated. Our Government, if they are sincere and honest to the oath they have taken to the Constitution, must come forward and explain their point of view before Parliament, so that we should know to what extent they have been able to plug holes in the Income-tax Act.

It has been said about section 34 that naturally old cases may be reopened, that cannot be helped. If the interests of the community demand it, we have to come forward and reopen these cases.

I have only to ask for one clarification. What will happen to the cases which have already been determined by the Income-tax Investigation Commission and the subsequent invalidation of this particular section 5 (4)—whether the intention of the Government is to hear all the old cases, or only the new ones. I do not know how they will be able to solve it. If we are allowed to furnish further evidence, it might be said that old books have been eaten away by ants, or the books have been burnt or lost, that many things have happened. So, I want Government to take the view that the cases which have been closed should not be allowed to be reopened, whatever the evidence or the leniency with which the Income-tax Investigation Commission might have dealt with them

Then, I would like to come to one very small point, regarding administration. If the Government is serious and sincere about collecting the just demands of the community from the persons who under the law of the land are allowed to earn in this country, then Government should see that the relationship with their staff is better and that their position is secure. An open allegation is made in Bengal, not only in the Assembly but outside, that a certain gentleman —an official of the Income-tax Department or some tax-collector—was hauled up, he lost his job or he was transferred because he behaved in a manner which the big bosses or some of the big sharks of our country did not like. I tell the Government that if they want to work this Income-tax Act with the purpose of collecting the maximum that the law permits them to do and to see that there is hardly any harassment of the smaller assessee, it is absolutely necessary they have better relationship with their staff. Unfortunately, I am told by the staff that a new provision is made whereby their unions' recognitions are withdrawn. You have got to take their help. It is the staff, the ordinary officials who have got a stake in the building up of the future of India who can help you, not the big sharks. They come to earn money. Unless you have that attitude, it will be very difficult for you to improve the position, to collect the maximum that you are entitled to, and create a condition where it can be considered that Government is honest and seriously acting to mop up the profits of the persons who have evaded and leaving the normal assessee to be taxed with human approach and with consideration.

Shri Jhunjhunwala (Bhagalpur—Central): Mr. Deputy-Speaker I wholeheartedly support the feelings expressed by my friends Mr. Basu and Mr. T. N. Singh, but the difficulty is as to how to put these things in practice. Let us look at it from a practical point of view.

The Government started this Investigation Commission, in my opinion, with two different objects: firstly, to mop up the profits which the people had made during war-time, and secondly as a corrective measure and to show to the public that this sort of things shall not be tolerated also in future. In my humble opinion, it is not due to the fault of Government, but wherever the fault, with the officials or the tax evader or at both quarters we have failed in both these objectives. And now we have come forward with this Bill, and taken shelter under section 34 of the Indian Income-tax Act. Under the Income-tax Investigation Commission Act, the Commission had a lot of powers to search and to find out the evaded income. Now, all those powers are not there. I am rather apprehensive over this thing. I do not know whether Government will be able to mop up any substantial income by this measure.

This Bill will result in nothing else but harassment of people, especially the honest people in the lower income groups. You will see that if within a period of sixteen years, from 1938 to 1956, anybody had evaded tax to the extent of Rs. 1,00,001, he will be roped in, under this measure. Further, we have also to see how the Income-tax Officers will be able to find out without any powers in his hand whether a particular person has evaded tax or not. If the Income-tax Investigation Commission, even when it had got so many powers to search etc., in its hands, has not been able to give us any substantial income during the course of these seven or eight years, it passes beyond my comprehension as to how Government under this amended law will be able to get any income out of those cases.

My hon. friend Shri N. C. Chatterjee has pointed out that this Bill may be limited only to those cases which have been investigated by the Commission under section 5(4) of the Act. But my difficulty is whether if such a thing is provided in the Act, the same discrimination may not arise. My hon. friend Shri N. C. Chatterjee has pointed out that in the judgment it is stated that the discrimination is not because of section 5(4), but it is because though the main objective of the Income-tax Investigation Commission is to rope in those persons who had made exorbitant profits during the course of the war, it has been used to rope in even those people who had not made any substantial or exorbitant profits because of war. It is because of this discrimination that the Supreme Court has held section 5(4) of the Income-tax Investigation Commission Act to be invalid. I cannot express any opinion on that. It is only the lawyers who could say something on that.

But we find that even in spite of the Income-tax Investigation Commission, the people really responsible for evading these big sums and thus depriving Government of their legitimate revenue have gone scot-free. When I say this general thing, one may be asked to produce evidence to that effect. If it was possible to prove it I will be asked, why did these people escape, in spite of the Income-tax Investigation Commission; was it due to the incompetence of the Commission or was it due to any other reasons, that the Commission could not get any substantial revenue for Government. Though these persons had made very large profits, they have been able to escape with a compromise for a very little amount. What I wish to point out is that in spite of all your provisions, for search and other things, these persons have escaped.

My fear is that this amended Bill may be used to harass honest people. It is provided in this Bill that these cases will be in the hands of the incom-tax officers. I do not know what

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will happen to people who are really honest. It will be wronf to say that the whole country is dishonest. There are people who are honest too and it is only these people who will be harassed by the income-tax officers. The officers will find out some discrepancy here or there, and will catch hold of these persons, in order to justify their existence and to say, well, under this Act also, we have done this, that and the other. I know of cases where some very honest people are being harassed in this manner.

But, as I said in the beginning, the people who have really evaded taxes go scot-free. Even the Income-tax Investigation Commission ,which had so many powers in its hands, has not been able to give any substantial income to Government, nor could it act as a corrective agent. There are instances where people have used underhand means and have gone scot-free. So, my submission is that while I have no objection to measures which provide that those who are real culprits, who have evaded tax, should be punished and brought to book, I feel that sufficient safeguards should be provided in the Bill to see that there is no harassment to honest people, to people who have not evaded taxes to a substantial extent.

So far as the legal aspects are concerned, it is not within my province to say anything on them. I do not know why Government have not provided, when they have brought in this Bill, for an amendment to section 5(1) of the Income-tax Investigation Commission Act, over which also some doubts have been expressed. Even here, it may be said that there is some discrimination. You are separating people into two categories, one consisting of those who have evaded to the tune of Rs. 1 lakh, and the other consisting of those who have evaded for more than Rs. 1 lakh. There may appear to be discrimination here also.

Moreover, there is a provision that action can be started only with the consent of the Central Board of Revenue. The Central Board of Revenue has to be satisfied that there is a fit case for starting action, and only then proceedings can be instituted. I quite appreciate the anxiety of Government to see that honest people are not harassed, but Government should see that this provision also does not result in discrimination.

With these few words, I support this measure, and I would request the hon. Minister to see that this measure is not used to harass honest people. Of course, Government will not use it to harass honest people, but the income-tax officers also should be instructed not to use this measure to harass people who are really honest, and who like to pay their taxes in a proper way.

Shri Kottukappally: I am a new Member to this House and this is the first time I rise to speak. I rise to support the Indian Income-tax (Amendment) Bill, introduced by Government, in its broad aspects.

2 P.M.

I shall speak about the general aspect of the subject. I have been listening with rapt attention to the speeches of the hon. Members supporting the Bill. Pardon me for saying that with a few worthy exceptions, such speeches have been a hymn of hate, an orchestra of contempt and calumny against some of our fortunate brethren in the country who, by dint of laborious work, integrity of character, and intelligent application to their profession, business or industry, have made themselves good in life. I long for the day when, for the good of our Republic and for the general uplift of our poor masses, more men and more women of our country rise in the scale of life and grow rich. They shall then be an example for others to follow and be a support to their less fortunate fellow-men and fellow-women. We should put as little impediment in their way as possible by way of legislation. There is no virtue in poverty. Poverty is a crime, said the socialist sage Benard Shaw.

Self-inflicted poverty might be good for the sanctification of the soul, but for a new Republic which is straining its every nerve for the enrichment of the masses of its population, to extol poverty in and out of season and sing its praises, to say the least, is a psychological error.

Mr. Deputy-Speaker: It is trying to become rich and not poor.

Shri Kottukappally: Our honoured parliamentarians seem to cultivate, to quote my valued friend, Mr. Pothan Joseph, an apostolic disdain of wealth. There is another side to the picture of income-tax evasion. Hundreds of small merchants, traders and industrialists in small towns and villages—I know it as a matters of fact—honest, upright, industrious men who by their enterprise have given work to large numbers of people are being harassed, worried and penalised by Income-tax Officers and taxed out of all proportion to their actual income. The bureaucratic behaviour of some of our Income-tax Officers has brought blood pressure and even heart failure to some of our righteous businessmen, merchants, agriculturists and industrialists. In supporting the present Bill, I wish to plead for those righteous businessmen whose case seems to be seldom supported. Thank you.

श्री आर० डी० मिश्र (जिला बुलन्दशहर) : उपाध्यक्ष महोदय, मैं इस बिल को सपोर्ट करता हूं। मुझे खुशी है कि आज इन्कमटैक्स की चोरी करने वालों को पकड़ने के लिए यह बिल लाया गया है। हमें गवर्नमेंट से यही शिकायत थी कि जिन लोगों ने लड़ाई के जमाने में ब्लैक मार्केट में रुपया पैदा किया था उनके साथ गवर्नमेंट मुलायमियत कर रही है। उस जमाने में विदेशी गवर्नमेंट थी, अफसरान बिगड़ गये थे, इन्कम टैक्स के अफसरान ठीक से काम नहीं करते थे और उन्होंने लोगों पर ठीक से टैक्स नहीं लगाया। आखिरकार गवर्नमेंट को सन् १९४७ में एक हाई पावर्ड कमीशन मुकर्रर करना पड़ा इसलिए कि वह देखे कि आया टैक्स का कोई इवेजन हुआ भी है या नहीं और अगर हुआ है, तो कौनसे जराये अख्तियार किये जायं कि इसके बाद टैक्स इवेजन न होने पाये। साथ ही साथ उनको यह अख्तियार भी दिया गया था कि जो इन्कम टैक्स इवेजन के केसेज गवर्नमेंट उनको रेफर करे उनकी तहकीकात भी करें। इसकी भी एक खास वजह थी कि इस काम के लिए क्यों इतना बड़ा कमीशन मुकर्रर किया गया। वजह यह थी कि बड़े बड़े लोग जिन्होंने करोड़ों रुपये का टैक्स इवेजन किया था उन लोगों की तहकीकात मामूली इन्कमटैक्स अफसर नहीं कर सकते थे। यह कमीशन उनकी तहकीकात कर सकता था और उसको अख्तियारात भी दिये गये थे। यह इसलिए किया गया कि इस बात का यकीन हो जाय कि ये बड़े बड़े आदमी जो बड़े बड़े महलों में रहते हैं और जो बड़ी बड़ी दावतें करते हैं, इन्होंने टैक्स इवेजन किया है या नहीं। अगर यह मालूम हो कि इन्होंने ब्लैकमार्केट में कमाई की है और टैक्स इवेजन किया है तो आगे के लिए क्या रास्ता निकाला जाय यह कमीशन को देखना था। तो कमीशन बना और उसने तहकीकात की। इसी के साथ ही साथ उस कमीशन को यह अख्तियार भी दिया गया था कि अगर इन केसेज की तहकीकात के दौरान में उसको किसी और केस का पता लगे, क्योंकि एक फर्म की बहियों को देखने से दूसरों का भी पता चल जाता है, कि किसी और ने भी टैक्स इवेजन किया है, तो वह इसकी गवर्नमेंट को रिपोर्ट कर दे और जब गवर्नमेंट को इस बात का यकीन हो जाय कि वाके इन लोगों ने भी टैक्स इवेजन किया है, तो उनको वे केसेज भी रेफर कर दे और उनकी भी तहकीकात की जाय। अभी चटर्जी साहब की तकरीर से मालूम हुआ कि २६९ केसेज उनके सुपुर्द हुए उनमें से २१२ या कुछ ऐसे ही केसेज तै हुए, जिन्होंने यह मान लिया कि हमने टैक्स इवेजन किया था। करोड़ों रुपया उनके जिम्मे निकला जिसमें से कुछ वसूल हो चुका है और कुछ वसूल होने को है। इसी सिलसिले में उनको मौका मिल गया और वे सुप्रीम कोर्ट चले गये। वहां सुप्रीम कोर्ट ने यह तै कर दिया कि इसमें तो डिस्क्रीमिनेशन हो गया। इस तरह से जिन लोगों के नाक

[श्री आर० डी० मिश्र]

कमीशन के पास चले गये कि उन्होंने टैक्स इवेजन किया है उन पर तो टैक्स लग गया और बाकी जिनका नाम नहीं गया उन पर टैक्स नहीं लगा। इसीलिए ५ (४) को सुप्रीम कोर्ट ने खिलाफ कानून ठहरा दिया। इससे गवर्नमेंट के लिए दिक्कत हो गयी कि जिनके मुताल्लिक कमीशन ने लिखा था कि इन से करोड़ों रुपया वसूल होना है वह नहीं हो सकता था। गवर्नमेंट ने चाहा कि यह रुपया मारा न जाय। इसलिए गवर्नमेंट ने एक आर्डिनेन्स जारी कर दिया। अब कमीशन की रिपोर्टों से यह यकीन हो गया है कि इवेजन हुआ है। इस इवेजन का करोड़ों रुपया वसूल हुआ और गवर्नमेंट के खजाने में आया और कुछ अभी बाकी है। इससे किसी साहब ने इन्कार नहीं किया कि इवेजन हुआ है। कुछ ने यह जरूर कहा कि इसमें लिमिटेशन का सवाल है। उन्होंने कहा कि १६ बरस बाद आप हिसाब क्यों लेते हैं। गर्ज कि इन चोरों को चोर रास्तों से बचाने की कोशिश की जा रही है कि यह कानून पास न होने पाये। यह तो वकीलों का काम है कि मर्डरर्स की, चोरों की, डाकुओं की वकालत करें। तो यहां यह कहा जा रहा है कि इसमें लिमिटेशन का सवाल है। लेकिन मैं कहता हूं गवर्नमेंट के टैक्स वसूल करने में लिमिटेशन का क्या सवाल हो सकता है। अगर कोई गवर्नमेंट की जमीन पर नाजायज कब्जा कर ले, तो उसमें ६० साल बाद लिमिटेशन लागू होता है। इसी तरह से यह किसी मामूली आदमी का तो लेन देन है नहीं कि जिसको तीन चार साल में तै कर लिया जाय, नहीं तो लिमिटेशन लागू हो जायगा। यह तो गवर्नमेंट का मामला है। गवर्नमेंट कोई आदमी नहीं है। गवर्नमेंट तो एक बहुत लम्बा जाल है जिसमें हजारों अफसर हैं। अब अगर कोई एक अफसर गलती करता है तो उस्की वजह से गवर्नमेंट क्यों नुकसान उठाये। इसलिए गवर्नमेंट के लिए मियाद लम्बी रक्खी जाती है। साठ बरस में कितने जेनेरेशन बीत जायंगे। अगर साठ साल तक पता नहीं लगेगा तो उस पर लिमिटेशन का सवाल आवेगा। इसी तरीके से यह टैक्स का [illegible] है। अगर एक अफसर ने गलती की है तो उसके स्थान पर जो दूसरा आवेगा, तीसरा आवेगा वह उस गलती को ठीक करेगा। इसलिए गवर्नमेंट के मामले में लिमिटेशन का सवाल लागू नहीं होता। जो गवर्नमेंट का रुपया है वह देना पड़ेगा। यह लड़ाई के जमाने की कमाई है। उस जमाने में हम लोग जेलखाने में थे और ये लोग कमाने में लगे थे। हम लोगों को जेल के अन्दर से ही यह शिकायत थी कि ये लोग बहुत माल कमा रहे हैं और जनता को बहुत तकलीफ दे रहे हैं। हम सोचते थे कि जिस दिन मौका मिलेगा उस दिन हम यह तमाम पैसा निकाल लेंगे। आज हमें उनसे कहने का पहला मौका मिला है कि भाई जितना रुपया तुमने लड़ाई के दौरान में ब्लैक मार्केट में कमाया है, उसका टैक्स ईमानदारी से रख दो और न सन् ४७ के एक्ट की बात करो, न किसी कानून की आड़ लो, न वकीलों की आड़ लो और न अदालत की आड़ लो, बल्कि ईमानदारी के साथ जितना तुम पर वाजिब आता है सरकार को दे दो। इन्कमटैक्स कमीशन के मुकर्रर करने से यह साबित हो गया है कि करोड़ों रुपयों का इवेजन किया गया है, बड़े बड़े आदमियों के केसों को देख कर पता चल गया है कि काफी रुपया इन्कमटैक्स का इवेड किया गया है। लेकिन अब तो बात सामने आ चुकी और कमीशन ने हमें बतलाया कि काफी रुपये का इवेजन हुआ है और उसके लिये हम इस बिल के द्वारा इन्कमटैक्स एक्ट में अमेंडमेंट कर रहे हैं और दफा ३४ की रू से हम इन्कमटैक्स अफसरों को अख्तियार दे रहे हैं कि वे पता लगायें कि इस मुल्क में किस किस ने इन्कमटैक्स का रुपया इवेड किया है और उनसे वह टैक्स वसूल करें। सरकारी इन्कमटैक्स के कर्मचारियों को जो इस जांच को करने के लिये जिम्मेदार होंगे होशियार रहना चाहिये। उनको चाहिये कि ईमानदारी से अपना काम करें और ऐसे लोगों का पता लगायें जिन्होंने टैक्स इवेड किया है, हमारे अफसरों को याद रखना चाहिये कि अब लड़ाई का जमाना नहीं रहा है और याद रहे कि अगर उन्होंने ठीक से पता नहीं

लगाया तो उनके खिलाफ भी सख्त कार्रवाई की जायगी। यह न समझें कि उनके साथ कोई रियायत दिखायी जायगी। लड़ाई का अब जमाना नहीं है, अब सुलह का जमाना है इसलिये इन्कमटैक्स डिपार्टमेंट और फाइनेंस डिपार्टमेंट के आदमी होशियार हो जांय और ईमानदारी के साथ वह इस टैक्स इवेजन का पता लगायें और सरकार के खजाने में उसको दाखिल करायें। हमारे देशवासियों को भी चाहिये कि वे ईमानदारी से अपनी इन्कम डिस्क्लोज करें और जितना रुपया लड़ाई के दिनों में उन्होंने कमाया है उस पर वाजिब इन्कमटैक्स अदा करें। जो लोग ईमानदारी से अपना टैक्स अदा करना चाहते हैं उनके वास्ते यह बहुत अच्छा बिल है। यह बिल स्वागत योग्य है और सरकार को इससे आमदनी होगी। जो इन्कमटैक्स की चोरी करते हैं उनको पता लग जायगा कि अभी गवर्नमेंट सतर्क है और वह उस पैसे को जरूर निकलवा कर रहेगी जिसकी उन्होंने चोरी की है और इस बिल में सन् ५६ तक की जो मियाद रक्खी गयी है वह जरूर कायम रहनी चाहिये और यह उम्मीद करनी चाहिये कि सब लोग ईमानदारी से इस मियाद के भीतर अपना रुपया दे देंगे और गवर्नमेंट को इस एक्ट को आगे बढ़ाने की जरूरत न पड़ेगी। इसलिये मैं इस बिल की ताईद करता हूं और यह चाहता हूं कि गवर्नमेंट के तमाम अफसरान ईमानदारी के साथ इन्कमटैक्स की चोरी में जो रुपया गया है उसको निकाल कर गवर्नमेंट के खजाने में दाखिल करा दें।

Shri V. B. Gandhi (Bombay City-North): Mr. Deputy-Speaker, in a general way we can say that we welcome this Bill and we shall welcome any Bill that holds out hope of additional revenue to the Government. Already, we have before the House, a demand for supplementary grants of an unheard of amount, a very large amount of Rs. 215 crores. Therefore, if for no other reason, for the reason that this Bill is going to bring in additional revenue, it will be welcome to this House.

The House has expressed a fairly unanimous opinion, that the tax evaders must be brought to book and that is as it should be. In this House there can be no sympathy for tax evaders and, therefore, this House will support this Bill. There can be no objection to allow Government to revive the action which has been suspended as a result of the decision of the Supreme Court. Every Bill that this House supports, it supports after examining it very carefully. This Bill is going to be one more patch added to the Indian Income-tax Act. This Bill represents an abnormal machinery, as was very well described by my friend Mr. C. C. Shah, and it is being incorporated in a normal law. Our Income-tax Act is increasingly becoming a patchwork of amendments. And, we feel that the time has come when the whole philosophy behind our income-tax should be revised.

Now, all of us individually agree with the things that were said here by friends like Mr. T. N. Singh, Mr. Gadgil and others. They all want that no income-tax evader should be shown any mercy. But, this House, collectively as a House, cannot allow itself to be swayed by prejudice either on one side or the other. Even an assessee deserves some consideration at the hands of this House. I am in agreement with the spirited plea made by my friend Pandit Thakur Das Bhargava in defence of the assessee.

The Deputy Finance Minister has said that a certain number of safeguards have been provided in this Bill in favour of the assessee. He has, of course, enumerated safeguards like the need for the Income-tax Officer to record reasons and also the need or requirement that before any notice can be issued, the Central Board of Revenue has to be satisfied. This is a small mercy, Sir, and these are times when one has to be thankful for even small mercies. I hope, the Central Board of Revenue, burdened as it is day to day with so many of the requirements under the various Acts

[Shri V. B. Gandhi]

will find time to do justice to this additional burden.

The important safeguard which the Deputy Finance Minister referred to is the proviso in this Bill which says that no notice shall be issued after the 31st day of March, 1956. It is unfortunate and it is a paradox that what the Deputy Finance Minister considers to be a safeguard in favour of the assessee is very likely to turn out to be a source of hardship, and inconvenience to him.

From the language of the Statement of Objects and Reasons one would have expected that the scope of the Bill would have been limited to cases that have already been referred to the Income-tax Investigation Commission; that is to say, some 145 and odd cases that still remained to be disposed of. But, apparently, the Government intends to have the time-limit extended up to 31st March, 1956. Of course, the Government has a right to ask for such an extension and it will be for this House to grant this extension. Here, I may say at once that the House may grant this extension. But, that, certainly, is not a safeguard in the interests of the assessees. If the Government has thought of this kind of time-limit then the Government would have done well if it had provided another kind of time-limit also; time-limit in the sense that when a notice has been issued within the time, say on the last day, then there should be a time-limit within which the case should be concluded. Today there is no such time-limit. A notice issued on the last day, that is the 31st day of March, 1956, may not be disposed of, say for a year or two, three, four or even ten years. Nobody knows. This kind of situation in which the assessee is kept hanging on for years and years is a situation to which the Government should have given some consideration.

As we see, the last date before which notice can be issued is 31st March, 1956. From the 1st September, 1939, it makes a period of 16½ years. To imagine and to expect that ordinary traders and assessees should be asked to produce or should be expected to produce documents, books of accounts and all other relevant papers of a period sixteen years ago, in cases of this kind is, I think, expecting too much.

We would have very much liked some kind of a provision of protection included in this Bill saying that it only relates to cases where genuine or acceptable proofs can be produced of destruction, misplacement or loss of documents. I do hope that the Deputy Finance Minister will give us some assurance in his reply on this point.

Then, there is the question of the condition in which we may find the assessee at the time of this new assessment. I mean the financial or economic condition in which we may find the assessee after these 16½ or 20 years—we do not know when the last case will be settled or disposed of. We know of some of the men who suddenly got rich in the flood-tide of inflation. We know also that some of these same men are in a very pitiable condition today. I know of a case in Bombay. A man in Bombay, who within the space of about three years gave away Rs. 35 lakhs to hospital, school and college funds, is now finding it difficult to make a living and is glad to get a small amount of money from his friends to keep his body and soul together. I am not exaggerating; this is a real life case. Therefore, as I said, this extension of time limit, period after period, involves some of these contingencies. I am glad that due notice of this hardship is taken by my friend Shri Mulchand Dube and I would like his amendment to be seriously considered by this House. As such, in this Bill, this House perceives some of these dangers and these possible sources of harassment to honest assessees. By all means, let us collect what is due from the tax evaders, but let us not make this

House agree to something which will involve endless hardship to honest assessees. I, therefore, hope that the Deputy Finance Minister, in his reply would shed some light on the intentions of the Government on these questions and give the necessary assurance to this House.

Shri U. M. Trivedi: Somehow or other, some friends have suggested that the limitation must be put upon the working of this Bill, in as much as they suggest that there are only certain people whose investigations have been nullified by the judgment of the Supreme Court, and that only such people must be roped in. In this connection I would like to put a very pertinent question to the Deputy Finance Minister who is present here. How many government servants and railway servants had their incomes assessed or investigated by the Investigation Commission? I can give you an instance where the station master of Ramganj-mandi in the year 1944 was making Rs. 4,000 per day. This is only of one town I am telling. I know of other railway stations where people were making tons of money. Why should there be any limitation on this Bill confining it only to these merchants whose cases have been investigated? Why not investigate the cases of all these people who really suck the blood of the whole country; who are getting only about Rs. 80 per month as salary and are earning Rs. 4,000 per day—it is not even Rs. 4,000 a month? I know the case of a tax evader who is still at Ratlam, known as a fruit vendor sitting in one corner of the Station. He has not paid a farthing to Government although his income exceeds Rs. 5 lakhs a year. Why is it not being investigated in the normal course? People have suggested that these things can be investigated in the normal course. Why the Income-tax Department has not investigated such cases in the normal course?

You have provided all sorts of loopholes. What is true, is that reading between the lines the whole thing is out and so there is no use. What Mr. Chatterjee has asked for is put down here in so many words. The same provision is here which says:—

> "Provided that the Income-tax Officer shall not issue a notice under this sub-section unless he has recorded his reasons for doing so, and the Central Board of Revenue is satisfied on such reasons recorded that it is a fit case for the issue of such notice:
>
> Provided further that no such notice shall be issued after the 31st day of March, 1956."

Those of us who know of red-tapism can understand the effect of this. What happens when the Income-tax Officer just puts down: 'this is my reason for proceeding against such and such a man? Immediately it goes to the Central Board of Revenue; it tries to find out whether the reasons are proper and reach a satisfaction. By the time that satisfaction is arrived the 31st March, 1956 is reached and there is absolutely no hope of proceeding against those people who have been the greatest curse to society—I mean the bribe-takers who will certainly escape from the clutches of this law. That is why I put a very pertinent question to the Minister as to how many cases of such people have been investigated. Have we got a single case of this type. I am sure even the cases of the Income-tax Officers themselves have not been investigated. I was at one time an Evacuee Officer in Assam. I know the case of one Income-tax Officer who passed that way and was unfortunately killed on that day—10th May, 1942—by bombing. When he was killed, all his property was seized by me and on recovering the property I found that he had his trunks filled with ten rupee notes worth lakhs of rupees. He was a man drawing only Rs. 300 and I fail to see how he got these lakhs of rupees. Even if he had stored all the money which he was getting as salary without eating or drinking anything, he could not have got that much

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wealth. Now, what about those government servants who have got properties worth, 10, 15 and even 20 lakhs. May I again put this question to you, Sir? Can you tell us of a single instance where the case of a government servant has been investigated?

Mr. Deputy-Speaker: Hon. Member can only put it through me.

Shri U. M. Trivedi: I, therefore, say, that there is absolutely no reason to put any limitation upon the method of investigation. We should not limit the scope of this Bill to only those merchants who make money, but it should include all those bribe-takers also who make money by illegal means; who suck the blood of this country.

I would further say that we when must have the power; we must have the justice also at our back.

Mr. Deputy-Speaker: The language is 'general income' from whatever source it may be.

Shri U. M. Trivedi: That is true; that is why I read out those two provisions. It is provided that the Income-tax Officer must record satisfactory reasons. Then there is another proviso that those people who are already in the know of the affairs must also be satisfied. When the Investigation Commission started the work they had certain material before them and that material has been placed in the hands of the Central Board of Revenue. Now, they are the people who will ultimately agree to take up the case of those people against whom the Commission has already proceeded.

Pandit Thakur Das Bhargava: If this provision is not there, you will find some other boxes full of money. This will only save the people.

Shri U. M. Trivedi: I quite agree with what Pandit Thakur Das Bhargava said because it comes out of the wide experience that he has of the world. We also know it, but at the same time, let us be honest and fair about it. Let us not say that it is only these people who have been the blood-suckers of the country and they are the only people who made tons of money during the control days. There are others also who made tons of money and who have not been touched. No fringe of them has been touched. It is these people, who must also be proceeded against. What I say is: let us be fair in our application of the law.

Now, in (1D) I find that a provision has been made:

> "Any settlement arrived at under this section shall be conclusive as to the matters stated therein; and no person, whose assessments have been so settled, shall be entitled to reopen in any proceeding for the recovery of any sum under this Act or in any subsequent assessment or reassessment proceeding relating to any tax chargeable under this Act or in any other proceeding whatsoever before any court or other authority any matter which forms part of such settlement."

I do not know why it should be conclusive for the Government also. If it is conclusive that any settlement or compromise entered into cannot be re-opened by the person, then it means that this does not apply to the Government. This proviso has been worded in such a way that it is not made clear that it applies to both parties. The first part of the provisd reads "Any settlement arrived at under this section shall be conclusive as to the matters stated therein;" and the next part reads "and no person, whose assessments have been so settled, shall be entitled to reopen in any proceeding for the recovery of any sum under this Act or in any subsequent assessment or reassessment proceeding relating to any tax chargeable under this Act or in any other proceeding whatsoever before any court or other authority any matter which forms part of such settlement." May I draw the attention of the Deputy Finance Minis-

ter to this aspect and say that it would have been much better if clause (1D) had been limited to "Any settlement arrived at under this section shall be conclusive as to the matters stated therein." In that case, it will be conclusive for both and it should not be conclusive for one person only.

Mr. Deputy-Speaker: So far as the earlier portion is concerned, it is conclusive for both the parties. After the first portion, there is a semi-colon and then the next portion commences, which is independent of the first.

Shri U. M. Trivedi: It ought to be a full stop in that case, but actually there is only a semi-colon. It therefore implies that Government can reopen the case.

Mr. Deputy-Speaker: Who is the person that is likely to reopen the proceedings? It is only the person against whom the proceedings are started. It is binding on both parties, I think.

Shri U. M. Trivedi: So far as the earlier portion is concerned, if instead of the semi-colon at the end of it, there was a full stop, it would be satisfactory. That makes all the difference.

Mr. Deputy-Speaker: Your point is that the full-stop instead of the semi-colon means much. Otherwise, it is likely to modify or qualify the earlier portion.

Shri U. M. Trivedi: Yes, Sir. I have one little thing also to say.

Shri Bhagwat Jha Azad (Purnea cum Santal Parganas): Do not worry about little things.

Shri U. M. Trivedi: Mr. Gadgil has been suggesting, as is his wont, something against the profiteers and none of us want that they should swallow the money, but at the same time we must take stock of all the facts together. If we want that this law should be applied without any discrimination whatsoever, it should have absolutely no limitation, in my humble opinion, to this period between 1939 and 1946. It is true that most of the profits were made during that period.

Mr. Deputy-Speaker: Bribes also would have been enormous only during that period.

Shri U. M. Trivedi: Some people got a good deal of money during the period when we were passing through troublesome days in the year 1947, and they made capital out of the miseries of other people. I am speaking only of those Government servants. The law is law for everybody and not merely to merchants and lawyers. When you talk of lawyers or workers or leaders or whatever you call them...

Shri Bhagwat Jha Azad: And merchants.

Shri U. M. Trivedi: Whoever made money must come under this law. Do not point out only the trader or the merchant. After all, he is also a brother of ours and he is also a citizen of India. Because he is a trader or a merchant, he is not a bad man. There might be still some good people among traders and merchants. I am talking of Mr. Gadgil's language and he wants it only against the merchants.

Mr. Deputy-Speaker: Apart from the question of merits, whatever happened in 1947-48 is covered under the existing law because the four-year or eight-year period will apply. The limit will apply until 1956. It is because eight years have elapsed or the eight-year period is exceeded in the case of 1946 that special legislation is necessary.

Shri U. M. Trivedi: With very great respect, may I submit that in the year 1957 this law will not apply. When you make this law as a permanent measure......

Mr. Deputy-Speaker: This will expire in 1956.

Shri U. M. Trivedi: Do not make it expire in the year 1956.

Mr. Deputy-Speaker: Is it the contention of the hon. Member that in place of four years and eight years, he wants some other period to be specified?

Shri U. M. Trivedi: So far as this question is concerned, I submit that the period should be extended to include the year 1947. I have been always very critical about this and those of us who were suffering in jails and suffering between the years 1939 and 1946....

Mr. Deputy-Speaker: Whatever might be the period profits are made, the whole period upto which the person can be tried is March, 1956. The hon. Member is laying emphasis on the earlier portion. So far as the latter portion is concerned, the ordinary law, if it is not altered, will deal with it.

Shri U. M. Trivedi: My point is that whatever was earned in the year 1947 will not be assessed in the year 1957. My submission is that there were certain government servants who were just pampering and trying to make as much money as they could by siding with the British Government and who secured promotions at the cost of the country when it was passing through turmoil and who also made tons of money and earned Rai Bahadurskhan Bahadurs and Sardar Bahadurs, and those cases must be investigated and they must be roped in under this Bill.

Mr. Deputy-Speaker: Does the hon. Member suggest that the case of a man should be enquired into because he got a Rai Bahadur or a Khan Bahadur title?

There are still three or four hon. Members wishing to speak. I will allow them to speak on clause 2 which is as good as speaking on the main clause. Meanwhile, I would call upon the Deputy Minister of Finance, Mr. Shah.

Shri M. C. Shah: I am grateful to the Members of the House for giving me their support in their speeches. Some of the Members have also appreciated the action of Government in bringing forward an ordinance so that the gap that was created by the Supreme Court's judgment might not remain there. Some Members have stated that Government have not gone far enough and very few Members have desired that there ought to be limitation on the powers to be given to Government under the Bill. I thought that my revered colleague, Pandit Thakur Das Bhargava, was going to oppose the Bill, but he ended by supporting it, with only an appeal to Government that before the cases are referred to under this section, the Central Board of Revenue must go through the matter very thoroughly and unless a very convincing-case has been made out, the case should not be referred to under section 34 (1A). Other Members also have urged the same point. I have no hesitation in assuring the Members of the House that the Central Board of Revenue will take utmost care in accepting the recommendations or the reasons recorded by the Income-tax Officer.

It will be seen from the present section 34 that the safeguard is rather in favour of those assessees whose cases will be re-opened under section 34(1) (a). Under the present section 34, the Income-tax Officer has to record reasons and then take the permission of the Commissioner; under this Act we have empowered the Central Board of Revenue to pay the utmost attention to all the things that will come to them before re-opening under section 34(1) (a).

Some hon. Members have said that the Government have not gone far enough. Some others have said that we have not taken any action to implement the recommendations of the Income-tax Investigation Commission when they have submitted a report to the Government. I may remind those hon. Members and the House that after the recommendations were received by the Government from the Commission, on receipt of part I, immediately the Government had come forward before the House in 1951 with an amending Bill of the Income-tax Act. Therein they had tried to have all the recommendations included about search, seizure of account books and all that. There was a clause about that too. That Bill could not be gone through and the Bill lapsed. We wanted certain sections which were absolutely important and very urgent and therefore instead of bringing in a controversial Bill we brought forward an amending Bill for those sections and at the same time we made our intention clear that we propose to have a comprehensive amending Bill of the Indian Income-tax Act. Now the matter is before the Taxation Enquiry Commission and possibly they will submit their report by the middle of October or by the 20th October, at the latest. We will have enough time to examine the recommendations made in that report with regard to the amendments of the present Indian Income-tax Act and we propose to bring a comprehensive amending Bill of the Indian Income-tax Act, as early as possible. Perhaps it may be before the end of 1955 or some time like that because after the Companies Bill, the Finance Ministry proposes to bring in this comprehensive Bill. It has been asked: what steps have been taken by the Government to implement the other recommendations of the Income-tax Investigation Commission. My friend Mr. Chettiar and one or two other hon. Members asked.

I may inform the House that from the year 1952, they have opened one Section under the Central Board of Revenue. That Section is named the Directorate of Inspection and Investigation. There are two branches: Directorate of Inspection and Investigation. Those cases which are to be investigated now are being investigated by that Section and the Director of Investigation whenever we get complaints or information apart from the cases before the Income-tax Officer or the Income-tax Investigation Commission, we immediately refer those cases to that Section. They are as a matter of fact, doing very useful work and till today they have found out concealed income to the extent of 1·3 crores and more. Therefore, I will invite all the hon. Members of the House to try to make available to us any information about evasion of taxes or about concealment of income as was suggested by my hon. friend, Shri Trivedi, the last speaker. I can assure the House that all these cases will be taken up by the Directorate of Inspection and Investigation and I am sure that the results will be very good.

An hon. Member wanted to know whether any case of Government servant was referred to the Commission. I find that five cases of Government servants were referred to the Income-tax Investigation Commission and if he gives any information with regard to any case he knows of, then, I am sure that prompt action will be taken.

Over and above this Section, we have already established special circles in important centres. These special circles deal with important cases whenever they have been brought to their notice. We have also survey circles in order to find out if there are persons who are liable to pay Income-tax but who are not filling up the forms. In the big centres we are getting good crops by these survey circles. I submit that we are taking very strict action in bringing to book all those who are evading Income-tax and we are also trying to see that not a single tax evader escapes the clutches of the Income-tax department. I am glad that my friend, Pandit Thakur Das Bhargava, has paid a tribute that Income-tax Officers are becoming more honest......

Sardar A. S. Saigal (Bilaspur): Before this they were not honest!

Shri M. C. Shah: In those times, before Independence, they say that there may have been corruption. I do not say that there is no corruption. I am glad and we are rather heartened that the morale of the department is going high. Therefore, wherever I have gone I have spoken to the Income-tax Officers that we must see that not a pie more is taken but at

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the same time we must be very careful that not a pie is lost from the actual dues to the Government. I hope that that policy will be followed by the Income-tax department.

Mr. Chettiar raised a point about voluntary disclosures. There were certain cases which were pending for a long time and they said this was the case with settlement cases also. If my hon. friends look into the Income-tax Act, they will find that under the present Act we have no powers—the Central Board of Revenue or the Central Government—to settle such cases. What was done at the time of the disclosure scheme was that those people were invited to disclose and to make a true and correct statement of disclosures. I think nearly 21,63 disclosure cases came out of which 20,440 cases were disposed of before 30th April 1954. So, the grievance that these cases were kept pending for a long time is not correct. These were not settlement cases. When we invited them to disclose they have disclosed within a particular period—and that was before October 1951—the true and correct statement of affairs and they were just taxed according to the rates leviable on them; no penalty was levied.

My friend, Mr. Asoka Mehta, had raised the question about settlements. He said that there might be some difficulty about settlements. The Income-tax Investigation Commission have two judges and they made good settlements. There may be some difficulty or suspicion about settlements to be made under this Act., We have deliberately taken the powers of settlement under this Act because under section 5(4) out of 220 cases there are quite a number of cases which may be about 189 cases were settled—that is disposed of on a settlement basis. As I said there are no powers to settle under this Act. If there are no powers of settlement then all those cases which were settled may come up again for settlement when notices are issued and it will be unfair on the part of Government not to accept the settlement terms which were accepted by the Income-tax Investigation Commission. They recommended certain settlement cases and that policy and the cases are before the Government. Under that Act, whenever they recommended a settlement they had to be approved by the Government of India and so in all these cases under sections 5(4) and 5(1) there were cases and they accepted settlements. Under Section 5(4) when the notices are issued and those people are coming forward it would be unfair on the part of the Government to investigate again and that will mean additional labour and perhaps additional hardship which the House wants to avoid. Therefore, we have taken powers of settlement. And those powers of settlement are also subject to the approval of Government. Those powers of settlement are not with the Central Board of Revenue. But with the approval of the Central Government those settlement cases can be accepted. Therefore, there should be no apprehension in the minds of hon. Members that in settlement cases the Government will pursue a policy which will not conduce to the welfare of the Central Revenues of the Government of India.

As I said, out of these 369 minus 32 cases, we have already, after the issue of the Ordinance, taken in hand 250 cases where we have issued notice to about a hundred. I am glad to say that already forty-six assessees have come forward to settle their claims, and we want to dispose of these cases as early as possible if they come forward. Even with respect to those 145 cases which are not yet taken in hand by the Income-tax Investigation Commission, if while enquiring into those cases they come in for settlement, we are prepared to settle. Therefore, we have taken powers to settle the cases if the people come forward to settle their cases within six months. We have advisedly put a time-limit of six months. Otherwise, we might go into those cases, and when everything has been found out they may say "we want to settle". We do not want to give them that opportunity. At the same time, we want their co-operation in settling all those cases, and therefore, we have taken powers advisedly about settlement.

Then again, it was said that there were two judges, they came to a right decision, and therefore, there ought to be some judicial advisory body. It cannot be accepted. Under the Investigation Commission Act there was no appeal on a question of fact. There was only an appeal on a question of law, to the High Court and the Supreme Court. Here there is an advantage to the assessees. They will have an appeal on a question of fact to the Assistant Appellate Commissioner and then to the Appellate Tribunal, and on a question of law to the High Court as well as to the Supreme Court. As a matter of fact, we do not want to impose any additional hardship on those people who will come under section 34 (1A). Therefore, I can assure the House, as I have stated earlier, that it is not the intention to harass any honest or straightforward assessee. But we want to rope in all those who had evaded Income-tax, and that is the general desire of the whole House as I have seen from the trend of the discussion.

My friend Mr. T. N. Singh said that we have not got wide powers under the Amending Bill. I do admit there were wide powers given under the Investigation Commission Act. But today we are amending the ordinary Income-tax Act, and, as I stated, we propose to bring in a comprehensive Amending Bill.

Shri K. K. Basu: When?

Shri M. C. Shah: I have already stated, after we get the recommendations of the Taxation Inquiry Commission, by about the middle of October, we will examine them and in the next year we propose to bring in a comprehensive amending Bill.

We have already thought about it and we want to bring in a comprehensive Bill to plug all the loopholes and to get as much revenue, which is due to Government, as possible, by plugging all those loopholes.

Shri T. B. Vittal Rao (Khammam): On the eve of the General Elections.

Shri M. C. Shah: Then it was stated by my hon. friend Pandit Thakur Das Bhargava that this one lakh of rupees provision may mean discrimination. We held discussions on that point and we are advised that it is not so. As a matter of fact in a fiscal statute it cannot be considered to be a discremination. Today also we do not tax those people whose income is below Rs. 4,200 in individual cases and Rs. 8,400 in the case of undivided families. And then we levy super tax only on those people who have incomes over Rs. 25,000. And also, there are varying rates. So there cannot be any question of discrimination if we have this limit of one lakh of rupees. And the one lakh limit has been kept also with the view that there may not be harassment to ordinary middle class people and only those people who have evaded tax on substantial incomes during war time may be brought under this section. So on the question of discrimination also there should be no apprehension. We have seriously considered this aspect and we are advised that there is no discrimination.

My hon. friend Mr. Chatterjee quoted the Solicitor-General. He said the Solicitor-General had advanced arguments that this section 5(4) was there because they wanted to bring in all those cases that had made war profits. The Bill also says about war profits, and it has been made very clear by the period 1st September 1939 to 31st March 1946. So I do not think there is any substance in the argument that was raised. As a matter of fact, it is the unanimous desire of the House that all those who have made war profits and evaded income-tax during the war period

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must be brought to book; in fact, some of the Members wanted to have this limit also reduced. But in order that, at this long distance of time, there should not be any harassment, we have put this limit of one lakh of rupees.

Those were the principal points raised, and if there are any other points which will be raised later on while considering the clauses I will try to reply to those points.

Mr. Bansal had raised the point: why bring in the shareholders and the partners? There too, under the Income-tax Investigation Commission Act also they can bring in the partners. Suppose there are partners and the liability of a partner is to be computed. The Investigation Commission had the right to do that. And we have taken those powers here. So also in respect of the shareholders of a private company.

I think those were the only points. As regards the point raised by Mr. T. N. Singh, I have already replied to it when you, Sir, asked me, and I said that according to the law as proposed this is certainly not the position and the Department will be entitled to take action in all cases, subject to the limitation of the law itself. Therefore, with the unanimous support of the House, I think I should not take more time in replying to the small, minor points that were raised.

Mr. Deputy-Speaker: It is also 3 o'clock.

Shri M. C. Shah: I have finished, Sir.

Mr. Deputy-Speaker: The question is:

> "That the Bill further to amend the Indian Income-tax Act, 1922, to provide for the assessment or re-assessment of persons who have to a substantial extent evaded payment of taxes during a certain period and for matters connected therewith, be taken into consideration."

The motion was adopted.

Clause 2— (*Amendment of section 34, Act XI of 1922*)

Shri K. K. Basu: I beg to move:

(i) In page 1, omit lines 18 to 20.

(ii) In page 2, omit lines 17 and 18.

(iii) In page 2, after line 41, add:

> "(1E) Annually a report shall be placed on the Table of the House of the cases reported hereunder, giving the amount of evasion involved, tax collected by either method of assessment or settlement and also the names of such assessees."

Shri Mulchand Dube (Farrukhabad Distt.—North): I beg to move:

(i) In page 1, after line 20, add:

> "(iii) that the assessee, at the time of the assessment, possesses property exceeding fifty thousand rupees liable to be attached in the realisation of the tax assessed;"

(ii) In page 2, lines 31 to 33,—

> omit: "and any penalty for default in making payment of any such sum may be imposed and recovered in the manner provided in Chapter VI."

Mr. Deputy-Speaker: I will first exhaust hon. Members in whose names the amendments stand. Then I will call upon the others. Amendments moved:

(1) In page 1, omit lines 18 to 20.

(2) In page 2, omit lines 17 and 18.

(3) In page 2, after line 41, add:

> "(1E) Annually a report shall be placed on the Table of the House of the cases reported hereunder, giving the amount of evasion involved, tax collected by either method of assessment or settlement and also the names of such assessees."

(4) In page 1, after line 20, add:

"(iii) that the assessee, at the time of the assessment, possesses property exceeding fifty thousand rupees liable to be attached in **the realisation of the tax assessed:"**

(5) In page 2, lines 31 to 33, omit—

"and any penalty for default in making payment of any such sum may be imposed and recovered in the manner provided in Chapter VI."

3 P.M.

Shri Mulchand Dube: The Government had accepted the principle that ordinarily persons who have small properties or incomes below one lakh of rupees and who have escaped assessment, should not be proceeded against under the present law. My amendment is merely a corollary to the principle accepted by Government that persons whose property does not exceed Rs. 50,000 should also not be harassed because the fortunes made during the war have, most of them, disappeared. It may be that at the time of the assessment he owns an ancestral house and the house that cost about ten to twelve thousands of rupees would at the present moment be of the value of Rs. 50.000. I would therefore request the hon. Deputy Minister to consider this aspect of the question also and to see whether, when he is exempting incomes below one lakh of rupees that have escaped assessment, it will not also be advisable not to assess persons who have property not exceeding Rs. 10,000 or Rs. 15,000.

[SARDAR HUKAM SINGH *in the Chair*]

Shri K. K. Basu: Sir, the first of my amendments to which I made a reference during the consideration stage, seeks the omission of subsection (ii) of section 1A that is sought to be incorporated in the Income-tax Act, 1922. My whole idea is that there should not be a limitation as to the amount for which one person—the tax evader—may be called upon by the Department for payment of tax because my basic approach is this. You say that evasion is a crime and we have put it in this way. This relates to 1939 to 1946 which was the period when the situation was abnormal and a large section of people had made abnormal profits and evaded tax. Sir, my whole idea is that if you put a limitation and, as you know it has been amply reported by the Income-tax Investigation Commission that the ingenuity of the tax evader has no bound. The main difficulty is about bringing the tax evaders, anti-social elements, etc. within the purview of this particular enactment. Sir we know there are business houses. I know the example which was quoted in West Bengal Assembly regarding Sarojmal Nagarmal who is deemed to have evaded two crores of rupees. But we know, Sir, tax evasion is there, but they have many subsidiaries and many other depending companies. It may be said that a particular company may not have been hauled up within the section as suggested by tre Government. C.B.R. has got to satisfy before initiating enquiry that a person by mistake or by miscalculation might not have just crossed the limit by a small amount. They have committed mistakes so far as smaller ones are concerned. C.B.R. has enough power. It is a question of principle. A person like Sarojmal Nagarmal, if he evades tax to the extent of Rs. 5,000 or so, should be hauled up. It is a matter of principle and unless you have a deterrant punishment for the persons who, because of their position and power in the society and the money that they have, evade the tax and circumvent the law, there won't be any check.

I will give you another example which has also been quoted in the West Bengal Assembly. There are Birla & Sons. They have orient mills which have evaded income-tax to the extent of two crores. There is another mill—Keshoram Mills—they have evaded tax to the tune of eighty lakhs of

[Shri K. K. **Basu**]

rupees. There is another Pottery Factory. They have evaded to the extent of twenty-five lakhs of rupees. I do not know, apart from the statement made in the West Bengal Assembly, how far it is true. If you have this limitation then there may be a case where a person, who would have been given an exemplary treatment, may slip out. I know of a small Pharmaceutical shop in Calcutta. During the war period they had a certain very important medicine for the treatment of typhoid, but that particular pharmaceutical company wanted to make enormous profit. For a thing which cost Rs. 6/- he wanted to charge Rs. 56 as a result whereof a middle class patient could not be treated with that medicine and he died because of that greed of the pharmaceutical company. We have got to see the psychological attitude, the mental attitude, of the persons who evade the tax. Some times the income-tax itself is so meagre and sometimes it is very difficult for an ordinary person to calculate. I am willing to accede in those cases, and C.B.R. has some power, but the amount is small. I have given the example of the pharmaceutical company. They have no right to exist in society if they themselves behave in such a manner. My intention is that there should not be any limitation of the amount on which section 1AA is sought to be amended.

There is another point. No notice was issued after March 1956. It is also because of the same attitude that I am trying to judge the problem. This portion relates to the period when there was abnormalty. The figures show that in March 1943, out of Rs. 117 crores of evaded income-tax, only about Rs. 62 crores could be collected. It may be difficult if you put the limitation to catch hold of these persons after 1956 because of this provision. In the books of some assessee it can be traced out that such and such a person has evaded tax. But, his case has been concluded. It must be open to the Government to re-open the case. Why put in this limitation when you are legislating for these abnormals and aberrations of society? They are not normal businessmen. It is absolutely necessary that we should have such a power, abnormal power or summary power to deal with these people. Unless we deal with these people strongly, how can we build up a healthy and prosperous India? They have to be treated in a fashion which would set an example to the future citizens of India who will try to evade taxes. I urge upon the House to look at this problem from that angle of view and I say that this limitation of date within which action under this particular section could be taken, should be done away with. There should be no limitation. The Central Board of Revenue is competent to take a decision in the matter. If you do not think that the Central Board of Revenue is competent, you can make it obligatory that there should be a man of a High Court Judge Stature. I feel that the Central Board of Revenue comprises of Members who have been in the department for long. Of course, Shri U. M. Trivedi said,—to some extent Government is responsible—there are persons who indulge in malpractices. You cannot say that the whole department is corrupt. It will create a sort of a psychology. As I said earlier, from the ordinary clerks, on behalf of whose Union I have made speeches, to the Members of the Central Board of Revenue, it is their national duty, as members of the administration, to find out the true evaders. I do not think in a majority of cases they will indulge in malpractices. There will be one or two exceptions. I know, society as it is composed today, cannot avoid. I say that the Government should take the strongest steps.

The third amendment relates to publication. This is very important. It is unfortunate that the Government has made a rule that the particulars of income-tax assessees and tax evaders cannot be published. Even through the Research Section of this Parliament, I wanted to get up-to-date information regarding these tax evasion figures, so far as the Investigation Commission is concerned. Then, the Research Section reported to me that the Government has made it a rule that this information should not be furnished. These figures I got in answer to my question in 1953.

Shri P. N. Rajabhoj (Sholapur—Reserved—Sch. Castes): On a point of order, there is no quorum.

Shri K. K. Basu: Why bother? Bring your men.

Mr. Chairman: There is quorum.

Shri K. K. Basu: Wrong calculation; brush up your mathematics.

I say this is a very important thing. We do not even get this information. Even our Research Section says that the Government have made it a rule that this kind of information should not be furnished. The figures that I gave relate to the amount of Income-tax involved up to 1953. I wanted to make it up-to-date. I wrote to the Research Section of Parliament. Perhaps, they sent a note to the Ministry. Eight or ten days have passed. They have not supplied the information. This is very important. You will set an example for the future anti-social elements.

I shall give an example. In the West Bengal Assembly,—unfortunately personalities have to be brought in—allegations were made against Surajmal Nagarmal and Birlas. I do not know whether it is right or wrong. The allegations were made in the West Bengal Assembly. There is also a book published. The publisher has not been brought to book and prosecuted for defamation. Unless that is done, there seems to be a *prima facie* case. The normal citizen of India is right when he wants that these people should be socially orstracised. Even within the limited outlook of the Government, they feel that these people should be hauled up. What do we find? Our Prime Minister attends one of Birla's parties as Texmaco factory. It may be quite unwittingly. The Prime Minister does not realise that his presence in that particular function may lend colour to the eyes of the common man, that the Government is soft to these people. He might have done it unwittingly. We have to realise what the average citizen of India thinks. Similarly, Shri Gadgil gave an example. They have a Press and they circulate whatever is to their benefit. Immediately after the allegations in the West Bengal Assembly, Birla gives an invitation to the Prime Minister to open an institution in Pilani. It is a good institution. Unwittingly he had a joy ride there with Birla. That photo was published throughout the length and breadth of the country. The poor citizen thinks that Birla is a good friend of the Government and there is no point in prosecuting or finding fault with him. There were allegations in the West Bengal Assembly against Surajmal Nagarmal. Side by side, it is said that the Chief Minister of West Bengal is his friend, and wherever he goes he stays with him and therefore we feel that we cannot get justice if we pursue him. In the interests of healthy development of democracy and democratic institutions that the publication of the names should be there. I do not say that when the case is pending the publication should be made. Immediately after it is disposed of, it may be published. Allegation is made by some Members that even in settlement cases there were reports that the Government was soft. Government must come forward, disclose their names and place before us, these are the anti-social elements. It is our duty to legislate against them. We will give publicity and say these people should be socially ostracised, they have no right to live in society because their actions are against the interests of society. Therefore, I urge upon the Government to see to it that, not only in the interests of healthy development of democracy, but in the interests of good Government, they publish the names of the tax-dodgers after assessment.

Shri Pataskar (Jalgaon): I am surprised to find that there is great enthusiasm or passion brought in a measure which has been brought forward in this House as a result of something that happened in one of the law courts. For instance, the matter relates to the period 1939 to 1946, when, at any rate this Government was not there. As is known all over the world, probably, as a result of the war several malpractices arose. I will not therefore accuse that Government also by saying that they did it deliberately, because we attribute so many things. The war days were such.

Shri K. K. Basu: They were minting money when you were in jail.

Mr. Chairman: Let there be no interruption.

Shri Pataskar: I am not in the habit of interrupting any one and I expect that much courtesy from others.

Shri K. K. Basu: Interruption is a normal part of a debate.

Shri Pataskar: Nor do I propose to take a long time. What I was pointing out was that from 1939 to 1946, certain things happened and certain malpractices happened. There is absolutely no doubt about that in any part of the House. Therefore, the Government that came into existence later thought that at least these cases should be investigated and they should derive some revenue out of those people. They have made money out of the miseries of the people; there is no doubt about that. Therefore, the Government passed the Income-tax Investigation Commission Act. Under the ordinary law, they had not got sufficient powers to deal with these cases. Investigation started. As we know, it is very difficult at a later period to find out exactly what had been done by these people in the past who indulged in malpractices. There is a later development. They had to settle it because it was thought that it would not be worth while even to pursue them. I am not aware of the complications that arose and therefore they left that idea. Subsequently, it appears that a section 5 (4) of the Income-tax Investigation Act was found *ultra vires*. Government say that they have brought forward this measure with the purpose of remedying that defect. If the Bill had not been brought forward, the result would have been that they would not have been able to proceed with the investigation of the cases which are uninvestigated. There was some force in the argument advanced by Shri N. C. Chatterjee that at the time when this matter was argued, the Government had an idea of only dealing with those cases which had been already referred and which were pending. What the hon. Member Shri N. C. Chatterjee said may also be correct.

I believe that by this proviso, which my hon. friend Shri K K. Basu wants to be deleted,

> "Provided further that no such notice shall be issued after the 31st day of March 1956."

it seems that they do not want power indefinitely. It would not be proper to have this power permanently.

Shri K. K. Basu: You can trust the Government of the day.

Shri Pataskar: In this case, my hon. friend Shri Basu has got full confidence in the Government. In certain other matters, he has lost confidence. There are other sections which so far as this matter is concerned, have no confidence in the Government. Therefore, Government has all along to find out what is the reasonable thing which they should do. And therefore, they came to the conclusion that it would not be desirable that at least ten years after the war was over they should have any power to start a fresh investigations relating to matters which happened ten years back. And therefore it is that they laid down this proviso:

> "Provided further that no such notice shall be issued after the 31st day of March, 1956."

That is the most reasonable thing that Government can be expected to do.

It may technically be true that while the case in the Supreme Court was being argued probably Government had no case before them which could be investigated from the start in future and even now probably there may be no such cases before Government, but on the off-chance of getting some information, probably there was not much harm if they kept that power to themselves till the year 1956 and therefore it is that that period has been put in.

Of course, as I said, on the one side there is one extreme. It says: "No. You should deal with only those cases which are kept pending and not go further." On the contrary, there is my friend Mr. Basu who says this should be a permanent feature. I think Government has struck a very healthy and a right mean between the two by saying that at any rate ten years after no useful purpose would be served. What evidence would be available after 1956? After ten years we do not expect there will be any evidence available. Not only that. But even to satisfy some of those people who say that Government might recklessly use these powers. I think there is another proviso which says:

> "Provided that the Income-tax Officer shall not issue a notice under this sub-section unless he has recorded his reasons for doing so, and the Central Board of Revenue is satisfied on such reasons recorded that it is a fit case for the issue of such notice:"

If this proviso was not there, I myself would have said that probably this was a power which could be entirely misused by any Income-tax Officer, and then probably some hon. gentleman would have come forward and said: "You are giving too much power into the hands of people who are already misusing them" and all that. There are so many charges. Mr. Basu himself asked how many prosecutions had been started against Government servants. That means that Government servants are looked upon with great suspicion by a section of the House. Therefore, Government also did not want this power to be given entirely to the Income-tax Officer, just because he chooses to do so to issue a notice against anybody. He says between 1939 and 1946 somebody did blackmarketing. There is something probably in it, but it may be with some ulterior motive of harassing the man concerned. Therefore, they have rightly made this proviso:

> "Provided that the Income-tax Officer shall not issue a notice under this sub-section unless he has recorded his reasons for doing so, and the Central Board of Revenue is satisfied..."

We have created that machinery, the Central Board of Revenue. Matters will go through them normally as is expected.

So, as I said, this is a very sobre piece of legislation which the Government has brought forward just to protect the man between the two extremes—one extreme which wants to run away with the idea: "Does not matter, whether it is just, equitable or otherwise, go on trying." I am no

[Shri Pataskar]

defender of any person, but I do not understand because in the Legislative Assembly of West Bengal some Member referred to someone—I know none of them, I can assure the hon. Member—or because in some paper they published the name of some person, what Government should do. Are we to presume that something has happened? I think that is not a proper procedure. And the recent argument advanced was that because of these names not being disclosed, because of that provision, people do not come to know who they are. I think, as my hon. friend Mr. Basu knows, this is not a matter of special provision. The whole of the income-tax principle as it is for the last so many years is that we do not make any of these documents public.

Shri K. K. Basu: Not tax-dodgers, only normal assessees.

Shri Pataskar: I do not know. Give a dog a bad name and hang it. It is something like that.

Mr. Chairman: Let there be no interruptions. I have requested the hon.,Member twice or thrice.

Shri Pataskar: I can undersand when there are prosecutions in certain cases. If there is a prosecution, there will be nothing to prevent it from happening, but not merely because somebody has got prejudice against some person or some names are repugnant to one section and some names are repugnant to another section and therefore the Government should do away with the wholesome principle which is there embodied in the Income-tax Act that normally these things are not to be made public. It is for the safety of the State. It is nothing new in the Income-tax Act of this country. I believe it finds a place everywhere, and also for right reasons. That does not mean this provision enables dodgers to escape. I could not follow as to how because of the provision that their names should not be disclosed, therefore, if they have committed some offence or have done something wrong they could not be hauled up for it at all.

I think, therefore, this is a simple measure in which we need not introduce all these other matters which are quite foreign. The only fact is that Government wants to bring forward a measure with respect to certain two hundred and odd cases which are still pending. They want to have the power to investigate those cases. If, in the meanwhile, certain other information is had and they find more such cases, they will issue notices only up to March, 1956. And the third thing is there is the limit. It says:

> "that the income, profits or gains which have so escaped assessment for any such year or years amount, or are likely to amount, to one lakh of rupees or more;"

That again, to my mind, is a very wholesome and a precautionary measure. There are two extremes here also. Hon. Member, Pandit Thakur Das Bhargava says that "such year or years" means Rs. 1 lakh in eight years, *i.e.*, about Rs. 13,000 a year. Is that the blackmarketing of which we are talking? (*Interruptions*). I do not agree with him. I feel that Government also, whenever they want to take more powers for doing something which is rather out of the way, which is something extraordinary, do not want to spend money on investigating the characters of people. Supposing in eight years, the income is less than Rs. 1 lakh, what is the cost to Government of the investigation, and what is the purpose served, how much tax will be recovered by all this? These are all practical considerations which Government has to take into account and which must be taken into consideration. Therefore, I think this provision also is more or less a sort of reasonable approach, looking to the two extremes. Therefore, as I was saying, this is really a simple measure which may not have been brought forward if there had not been that decision of the Supreme Court and which has been brought forward as a result of that decision, by which they thought that so many people against whom investigations are going on and against whom investigations might be started who might escape payment should not be allowed to escape. Therefore, about the necessity of the measure I think there is no difference of opinion.

With respect to the proviso, on the one hand those people think probably officers and departments will run riot and do something wrong against innocent persons. I think there is sufficient provision made in this respect. With respect to the others who would like to run at anybody because his name is mentioned somewhere, there is also provision that Government does not want to proceed with these extraordinary powers after ten years, because practically it would be impossible in the year 1956 to find out with reasonable certainty anything and to spend such huge sums of money after a thing from which no benefit could accrue to the Government or to the State or the society in general. I therefore think that this is a very sobre measure which has taken into consideration both the pros and cons of the question. It is intended to remove an evil, and I would therefore submit that the measure as it is should be accepted and I think all these amendments are unnecessary.

Shri Bhagwat Jha Azad: Mr. Chairman, Sir...

एक माननीय सदस्य : आप हिन्दी में बोलिये ।

Mr. Chairman: Let the hon. Member choose his own language.

श्री भागवत झा आजाद : आप हिन्दुस्तान में रहते हैं इसलिये मालूम होता......

Mr. Chairman: The hon. Member will address the Chair only.

Shri Bhagwat Jha Azad: Mr. Chairman, this is the first time that I am extending my wholehearted support to such a measure. Previously, either I had totally opposed the Bill or gave my partial support, but this is one measure to which I am giving full co-operation though I feel this measure will not go far. So far, in the speeches delivered in this House, nobody has disagreed with the principle of the measure.

Mr. Chairman: Though the hon. Member might have been given this first opportunity, yet he knows he is on the second stage.

Shri Bhagwat Jha Azad: This is not the first time. I have spoken hundreds of times. What I am saying is...

Mr. Chairman: First time on this Bill.

Shri Bhagwat Jha Azad: What I am saying is that this is the first time that I am giving my wholehearted support to any Government Bill.

So far as the principle is concerned, all sides agree, but objection has been raised in regard to clause 2 which is the operative part of the Bill, and I will confine my remarks, as you were saying, to that very clause. It has been said that it will be open to Government to see that whatever wealth has been amassed during the war period will be subject to investigation under this Act, which is being amended by this House. The objections that have been raised to this are that the period which is subject to investigation is so long off that it will not be possible for Government to go into it fully, and moreover, it is not fair to expect from those who have already evaded the tax to give proofs and to produce witnesses after such a long period. The second objection is that it will not be fair that only businessmen's cases should be reopened, and not those of others.

[Shri Bhagwat Jha Azad]

I feel that the grounds adduced in this House up till now are either irrational or illogical or flimsy. The only exception, in this connection, is Shri N. C. Chatterjee, who by now has established his reputation in opposing any Bill, good, bad or indifferent, coming from the Government Benches. Closely following him, Shri U. M. Trivedi has supported this Bill, and he has said that clause 2 will apply only to those who are businessmen, and therefore, there is discrimination. I say it is not only to those that this Bill will apply, but it will apply to them also.

So far as the collection of evidence is concerned. I feel that businessmen are so acute and so clever that where money is involved, even if it be a pipe, they take particular care to keep all tthe evidence. In our parts, there is a small proverb which says:

चार आने का तेल जाय पर एक पाई न जाय ।

It does not matter if you spend four annas of oil, but you should not miss even a pie in the account. They will not mind if on a particular occasion they have to spend four annas of oil, though they may only realise one pie at the end; but on hundreds of occasions, they may spend four annas, but get hundreds of annas in return. In regard to evidence, Shri V. B. Gandhi has said that it would be difficult to get all the evidence. I say, so far as evidence and records are concerned, they will all be there intact. Of course, by the time this amending Bill is passed, and the evidence is asked for, getting hint from the speeches of my hon. friend Shri V. B. Gandhi and others, they may probably be destroyed. But nonetheless, I feel all the records will be there, or at least the grounds will be there sufficiently, because in war times, wealth has accumulated, though man has decayed. There is no denying the fact that this accumulated wealth has been displayed in cocktail parties, in luxury cars, and in palatial buildings.

I feel that this Act will not go far enough in this sense that there will be the intervention of the High Courts and the Supreme Court, and a person like my hon. friend Shri N. C. Chatterjee will immediately come forward to plead the case of any man who has evaded the tax. Still I feel personally, that when there is a *prima facie* case of such accumulation of wealth, the man concerned should be proceeded against. For instance, here is a businessman who is dealing with Rs. 50,000, but if within this period, he has come to deal in lakhs, obviously it is a *prima facie* case that he is a blackmarketeer or a profiteer, and therefore, he should be hanged by the nearest tree. Even the present provision in clause 2 will not go far enough. Yet, I feel this is good. The Supreme Court has invalidated section 5 (4) of the Income-tax Investigation Commission Act, and therefore, Government have come forward with this amending Bill wherein this provision has been inserted.

It is said that clause 2 is an indirect affront to the dignity of the Income-tax Investigation Commission, which is very strange. I see nothing strange in it, because it has by now become the habit of those friends about whom I mentioned earlier, to come forward immediately to plead the case of any businessman.

The hon. Deputy Minister has stated that during the period the Commission has been in existence, out of a total of three hundred and odd cases, about two hundred and odd cases have been investigated, and it has been found that there have been tax evasions in these cases. So, it has been established that there has been tax evasion. Not it is only a question of how to deal with the matter. The Income-tax Investigation Commission has done its best and has found out something. But we find that the powers that this Parliament has given to that Commission, and the powers that Government have in their possession are not sufficient to deal with these cases. I feel, therefore, that Government are perfectly justified in coming to this House and saying, I want more power. Of course, they are not giving more powers to the Income-tax Investigation Commission but they want power under the ordinary Act, which is there, namely the Indian Income-tax Act. There is no indignity or insult or anything of that sort involved in this matter. These are all just flimsy grounds which have been adduced by the supporters of those who want that the persons who have evaded the taxes should not be punished. One of the objections raised, as I have said earlier, is that the period to be investigated into is so long that it is unreasonable to expect the assessees to produce all the evidence in their possession in respect of their income. I shall put it the other way and say that it is a premium given to those evaders who have successfully evaded the payment of income-tax. Their argument seems to be that because they did this evasion long long ago, they should be left scot-free, and only those persons who could be caught within a reasonable period should be punished. This is the argument advanced under this clause 2. I think this is something which is completely illogical and flimsy. I feel that Government are perfectly justified in bringing forward this amending Bill, because it is but natural that any democratic government which believes in a welfare state should certainly bring forward such measures and amendments as will tend to level down the income, at least to a certain extent. Though I feel that this measure will not enable Government to catch hold of all those evaders, because of technicalities and other things, because the Supreme Court and the High Courts may invalidate some of its provisions, still I say that whenever any such occasion arises, Government should come to this House and have such powers as they require.

In conclusion, I would repeat that all the objections that have been raised against clause 2 are completely out of logic, and therefore, I support this Bill, though with this reservation that this will not go far enough to catch hold of all the culprits and blackmarketeers and hang them by the nearest tree.

Pandit K. C. Sharma: I support this measure, and while doing so, I am sorry that it does not go far enough. I support the amendments of my hon. friend Shri K. K. Basu. I know my esteemed friend Shri K. K. Basu is rather an extremist sort of politician, but in this respect, since it is a matter of principle, I agree cent per cent with him. This is not a matter which is merely financial. It is not that this Government want money. What for do they want this money? Any money that has been earned by a blackmarketeer has been spent away already or has gone underground. If it has gone underground, it is as good as dead money, and what is the use of it? If it has been spent away, then the botheration and harassment taken to realise it is not perhaps worth the trouble, in ordinary cases. Again, if the money is to be paid in long instalments, perhaps, the money may not be realised. Suppose there is something like a crore of rupees, and it is to be paid in ten or fourteen instalments, perhaps, the money is not going to be realised. The fundamental question is that this social organism called the state ensures certain rights to its citizens, and consequently, there are correlative obligations on the part of the citizens. One of them is to pay taxes to the state, not because it is a matter of charity or it should be paid out of a generous feeling, but because it is a definite obligation on their part to do so. Whatever wealth is earned or produced by an individual is as a result of his hard work or labour but there is a definite contribution by the state also.

For the good, for the work, for the safety, for the betterment, for the protection and security of the man who keeps his wealth inside his house, the State takes certain measures; therefore, he has an obligation

[Pandit K. C. Sharma]

correlative to the right to produce and keep the money he earns and that is that he must pay the taxes. A man who has not paid the tax, has kept back the money which he has no right to keep. Therefore, he is as good a criminal as any thief. If a thief could be punished, a tax-evader must needs be punished and he must be given a harder punishment because he has the intelligence and the means and, therefore, has a social status which he should, in no way, be allowed to enjoy. Therefore, what I beg to submit is that it is not a simple affair of a financial question that the Government will rope in a certain amount of money, but it is a question of social values. It is a question of keeping intact the social organism which you call the State. No State can continue to be a stable State unless the people who make money are willing, and honestly pay the taxes. I take a serious view of the thing, because after independence people have become very conscious of their rights and obligations. The moment a police constable knows that the man with whom the district magistrate takes tea or the man who has the honour of a visit by a Minister, daily makes a lot of money by black-marketing and does not pay the taxes, what would be the result? He will not do his duty towards the State. Therefore, corruption will come in. Then, where would be the stability of the State?

One should remember that now one cannot expect from another certain services when he is not on his part doing his duty towards that section of the people. Otherwise, the whole structure of the State will crumble. Therefore, I beg to submit it is a very serious matter and I wholeheartedly support Mr. Basu's view point in this respect.

The second point is that not only are they as bad criminals as thieves, but they are more dangerous for they have deprived the community of commodities at a time when it was hard-pressed. During the war-time when there were lesser quantities of commodities in the market and therefore, greater demand, they took away the medicine from the mouth of the sick and they took away the cloth from the naked. Still, my friends, Pandit Thakur Das Bhargava and Mr. Chatterjee, plead for a soft corner and that there would be harassment. Where is the question of harassment or soft corner? A sub-inspector is fit enongh to arrest a thief: he is fit enough to prosecute him. But is an Income-tax Officer less responsible than a sub-inspector of police? What personal grudge has an Income-tax Officer got against any such men who keep back money which they have no right to keep and thereby evade tax and demoralise the society. Is there any reason that they should be allowed to thus flout the law. It is a strange logic that in relation to a demoralised creature who has kept back tons of money, the Income-tax Officer is said to be a man who is irresponsible and has a personal grudge against him. If he keeps back heaps of money, he is not entitled to claim any sort of prestige whatsoever. Therefore, a black-marketeer who has kept back the money of the community is as bad a criminal as any thief would be and he has no right to any clemency before the law. He must be brought to book at any cost—harassment or no harassment. It is not a question of money; it is a question of the stability of the State. It is a question of keeping going the structure which has been recently built and which we mean to keep on going.

I am sorry to say that I still hope that the Finance Minister will bring in a comprehensive law which will give power to the department of investigation, interrogation, of search and of taking possession of the account books. It is necessary. When I spoke about the amendment of the Income-tax Act previously, I said

that these powers were necessary. I still repeat my demand, as Mr. Bhagwat Jha Azad has said, that these comprehensive powers are necessary not so much with a view to rope in the money, as to bring in a healthy state in the social structure. It is much more important that every citizen discharges his obligation under the Constitution rightly, faithfully and honestly so that this great structure may last.

With these words, I support the amendment of my friend, Mr. Basu, and I wish that the Finance Minister would take note of the urgency of a comprehensive piece of legislation giving the department the powers that I detailed, namely, of investigation, search, interrogation and taking possession of the account books.

श्री पी० एन० राजभोज (शोलापुर---रक्षित---अनुसूचित जातियां) : सभापति महोदय, मैं इस इनकम टैक्स अमेंडमेंट बिल का समर्थन इसलिये कर रहा हूं क्योंकि मैं समझता हूं कि इस प्रकार का बिल ऐसे लोगों के खिलाफ अमल में लाना बहुत जरूरी है जिन्होंने बुरे मार्ग से ब्लैक मार्केट करके पैसा जमा किया है और सरकार को टैक्स अदा नहीं करते हैं। मैं समझता हूं कि हमारे मिनिस्टर महोदय को फीगर्स देनी चाहिये थीं कि इस बिल की मदद से इनकमटैक्स के रूप में हमारी गवर्नमेंट को कितना पैसा मिलेगा, और इससे क्या लाभ होगा। फीगर्स के अभाव में मैं नहीं समझता कि किस तरह इस बिल की उपयोगिता का अन्दाजा हो सकता है और उसका समर्थन किया जा सकता है, वैसे जहां तक इस बिल के उद्देश्य का सम्बन्ध है मैं पूर्णतया उसके पक्ष में हूं और चाहता हूं कि ऐसे लोगों को जो चोरी से पैसा कमाते हैं उनको लाइट में लाना चाहिये और कड़ा दंड देना चाहिये क्योंकि तभी लोगों को भविष्य में शिक्षा मिलेगी। यह जो करीब दो सौ आदमियों के नाम दिये हैं, मेरे ख्याल से उनको कड़ी सजा देनी चाहिये थी, उनको बहुत कम सजा दी गयी और जिससे सहज ही दिल में यह ख्याल पैदा होता है कि सरकार के अफसरान उनसे पैसा ले लेते होंगे और याद रखिये जब तक हमारी गवर्नमेंट काला बाजार करने वालों को सजा नहीं देगी तब तक इस देश में करप्शन बंद होना मेरे ख्याल से बहुत मुश्किल बात है। दूसरी बात जिसकी तरफ मैं सरकार का ध्यान आकर्षित करना चाहता हूं वह हमारे बड़े बड़े सरकारी अफसरानों की तरफ है। पूना के अन्दर मैं आपको बतलाऊं कि गवर्नमेंट आफ इंडिया के बड़े बड़े अफसरान, आई० सी० एस० वालों के बड़े बड़े आलीशान बंगले बने हुए हैं, उस सम्बन्ध में कोई जांच अथवा पड़ताल नहीं की जाती कि इतना पैसा उनके पास कहां से आता है। बिजनेस वालों से ये बड़े बड़े अफसरान पैसा लेते हैं और अपने लिये बड़े बड़े आलीशान बंगले बनवाते हैं, वह जो रिश्वतखोरी करते हैं उसके लिये हमारी गवर्नमेंट की तरफ से कोई छानबीन नहीं होती है। हमारे इनकम टैक्स आफीसर्स लोग बड़े बड़े बिजनेस मैगनेट्स से मिले होते हैं और जिसका नतीजा यह होता है कि सरकार को जो टैक्स से आमदनी होनी चाहिये वह नहीं हो पाती है। मैं समझता हूं कि हमारे देश में इतनी हिडेन इनकम पड़ी है कि अगर उसका पता लगाया जाय तो सरकार के खजाने में काफी पैसा आ जायेगा और आज जो सरकार कहती है कि उसको पैसे की सख्त जरूरत है, फाईव ईयर प्लान इम्पलीमेंट करने के लिये उसको पैसा चाहिये, अछूतों की उन्नति के वास्ते स्कीम अमल में लाने के लिये पैसा चाहिये और दूसरी दूसरी स्कीम्स के वास्ते सरकार पैसा मांगती है, तो अगर सरकारी अफसरान ईमानदारी से काम करें और चोरबाजार से पैसा कमाने वालों का पता लगा कर उनसे टैक्स वसूल करें तो मैं समझता हूं कि सरकार को पर्याप्त पैसा मिल सकेगा। जरूरत इस बात की है कि सरकार हमको कौनफिडेंस में ले, हम उनको ऐसे केसेज बताने को तैयार हैं लेकिन मुश्किल यह है कि हम चूंकि विरोधी पार्टी में हैं इसलिये हमें सरकार अपने विश्वास में नहीं लेती है और जब तक आप हमको अपने विश्वास में नहीं लेते तब तक हमारे मंत्री महोदय का कहना कि हमको इनकमटैक्स के इवेजन के केसेज

[श्री पी० एन० राजभोज]

बतलाइये कोई मानी नहीं रखता । हम आपको क्या बतलायें, हमारे पास कोई पावर भी है, ट्रेजरी बेंचेज के ऊपर आप बैठे हैं, सारी पावर आपके हाथ में है और चूंकि आप हमको विश्वास में नहीं लेते हैं, इसलिये अगर हम कोई केस बतायेंगे भी तो आप हमको ब्लैक मार्केटर मान कर सजा दे देंगे और कह देंगे कि अरे यह झूठी बात है...

सरदार ए० एस० सहगल (बिलासपुर) : आप एकाउन्ट ठीक रखियेगा ।

श्री पी० एन० राजभोज : मेरे दिमाग में कई बातें ऐसी हैं जिसके जरिये आप उन पर टैक्स लगा कर अपनी आमदनी बढ़ा सकते हैं, मसलन् नमक के ऊपर आप टैक्स लगा सकते हैं और उसके फलस्वरूप हमारे इनकमटैक्स की आमदनी ज्यादा बढ़ जायगी और सरकार को ज्यादा पैसा मिलेगा ।

सभापति महोदय : हम क्लाज नं० २ पर बहस कर रहे हैं ।

श्री पी० एन० राजभोज : जो क्लाज नं० २ है और उस पर जो एमेन्डमेन्ट है उसी पर मैं बोलना चाहता हूं ।

सभापति महोदय : आप क्लाज २ पर ही बोलें ।

श्री पी० एन० राजभोज : मैं आप की आज्ञा से यह बताना चाहता हूं कि इस में कई बातें हैं । हमारे श्री मूल चन्द दूबे का जो एमेन्डमेन्ट है कि ५०,००० होना चाहिये, मेरे ख्याल से वह ठीक है । एक लाख तो आप ने बता दिया, लेकिन जिन की इनकम ५०,००० रु० है उन के लिये भी कुछ न कुछ इन्तजाम होना चाहिये, जैसे बैंक्स हैं, जमीदार हैं, लिमिटेड फर्म्स हैं, सिनेमा एक्ट्रेसेज हैं या इसी तरह के जो और पैसे वाले लोग हैं उन के बारे में भी कुछ न कुछ जांच होनी चाहिये । इस लिये जो हमारे श्री मूलचन्द जी का एमेन्डमेन्ड है उस के लिये मैं कहता हूं कि वह ठीक है और उस को पास होना चाहिये ।

हमारी गवर्नमेंट इस बारे में प्रगति की ओर पैर उठा रही है, लेकिन इस इनकम टैक्स के बारे में जो कुछ वह कर रही है, मैं समझता हूं कि उस की गति जरा मन्द है । मेरा ख्याल है कि गवर्नमेन्ट की नीति इस बारे में जरा जोर से चलनी चाहिये । इतनी धीमी गति से कोई काम आप का नहीं हो सकेगा । और जो लाभ इस से हमारी जनता को हो सकता है वह नहीं होगा । इस लिये मेरी राय है कि जिन लोगों ने काफी पैसा बनाया है उन की एकाउन्ट बुक्स को सरकार को अपने हाथ में लेना चाहिये और मुनाफाखोर लोगों को पकड़ना चाहिये । जब उन को पुलिस के डंडों का डर रहेगा तो वह जल्दी से जल्दी अपना हिसाब बतला देंगे । यह सरकार जनता के नाम से चलती है, लेकिन मुनाफाखोर लोगों के खिलाफ सरकार कोई एक्शन नहीं लेती है । वह सिर्फ गरीब लोगों को ही पकड़ कर जेल भेजती है । जो दूसरे बड़े बड़े लोग हैं, व्यापारी हैं, जो जमीदार हैं और जो गवर्नमेन्ट आफिसर्स हैं उन के बारे में जांच पड़ताल नहीं कराती है । इस लिये मैं श्री मूलचन्द दूबे जी के एमेन्डमेन्ट का समर्थन करता हूं । इस एमेन्डमेन्ट को जरूर पास होना चाहिये । जब तक हमारे पास पैसे की कमी है, जब तक हमारे सामने बड़े बड़े प्लैन हैं, जब तक उन को पूरी तरह से अमल में लाने में पैसे की दिक्कतें हैं, तब तक इस बारे में मन्द गति से चलने से हमारा काम नहीं चलेगा । मेरा विश्वास है कि इस बारे में गवर्नमेन्ट और जोर से आगे कदम बढ़ा कर देश का भला करेगी ।

Mr. Chairman: Mr. Borkar; he will finish it in five minutes.

Shri Mulchand Dube: Sir, I have two amendments, amendments 8 and 10. I have spoken only on amendment No. 8 and not on amendment No. 10.

Mr. Chairman: It was made clear that every hon. Member who moves amendments will be allowed only one chance irrespective of the number of amendments. All the amendments to clause 2 have been treated as moved. Now, it would be difficult to give him another chance.

श्री एन० ए० बोरकर (भंडारा) : सभापति महोदय, लड़ाई के जमाने में अनेक चीजें पैदा हुईं । हर तरह की चीजें उस में हम ने देखीं । जो चीजें उस वक्त पैदा हुईं उन की तरफ आज हमारी गवर्नमेंट का ध्यान जा रहा है, और इसीलिये यह विधेयक आया है । इस के लिये मैं गवर्नमेन्ट को धन्यवाद देते हुए, इस बिल का स्वागत करता हूं ।

लड़ाई के जमाने में दो वर्ग पैदा हुए । एक वर्ग ऐसा था जिस ने गरीबों का खून चूस कर खूब पैसा कमाया और लाखों रुपये उस के पास आये । वह किस प्रकार आये, इस की तो आप जांच पड़ताल करने जा रहे हैं । जब इस की जांच पड़ताल होगी तो उस का इनकम टैक्स गवर्नमेन्ट के पास आयेगा । लेकिन यह जो दो वर्ग पैदा हुए, उन के लिये एक चीज बहुत जरूरी है कि जांच करते समय हमारे सरकारी कर्मचारी ईमानदारी से काम करें । हम ने देखा है कि जांच करने का काम सरकारी कर्मचारी पर ही आता है । जो लोग व्यापारी होते हैं उन के बहीखातों को आप ने देखा होगा । वह बहीखाते दो तरह के होते हैं, और कहीं कहीं तीन तरह के होते हैं । एक बहीखाता तो ऐसा होता है जिस को कि उन के घर की औरत भी नहीं देख पाती है । वह तो उन की पेटी में बन्द रहता है । तो जो हमारे कर्मचारी हों, या जो इनकम टैक्स आफिसर हों, उन को इस का ध्यान रखना चाहिये, क्योंकि जब कि व्यापारी की औरत भी उस को नहीं देख सकती है तो बेचारे सरकारी कर्मचारी कैसे देख पायेंगे ।

दूसरी बात यह है कि खसारा फंड के नाम से एक और एटम बम हमारे व्यापारियों ने रख छोड़ा है । यह भी एक ऐसी चीज है जिस का पता सरकारी कर्मचारी या इनकम टैक्स आफिसर को नहीं लग सकता है । जब जांच करने का मौका आता है तो इस खसारा फंड में जितना रुपया व्यापारी चाहे डाल दे । किसी को पता नहीं चल सकता कि कम्पनी कैसे चल रही है, और क्या चीज है । मैं चाहता हूं कि खसारा फंड जिन कम्पनियों ने बना रखा है, जिस का निर्माण लड़ाई के जमाने में हुआ था, उन के इस एटम बम की भी अच्छी तरह से जांच होनी चाहिये । यदि इस खसारा फंड के पैसे का पता ठीक से चल गया तो उस से जो पैसे मिलेंगे उस से हमारी फर्स्ट फाइव ईअर प्लैन में जितनी कमी होगी वह भी पूरी हो जायेगी और सेकेन्ड फाइव ईअर प्लैन को भी पूरा कर सकेंगे । इतनी रकम हम उन से पैदा कर सकते हैं क्योंकि उन्होंने लड़ाई के जमाने से आज तक बहुत पैसा बचा कर रखा है ।

तीसरी चीज मैं यह रखना चाहता हूं कि सरकारी कर्मचारियों का जो आज तक का ढांचा रहा है काम करने का उस में एक यह है कि उन का व्यापारियों से काफी मेल मिलाप रहता है, उन का भी उन से ताल्लुक रहता है । वह लोग व्यापारियों से मिल जाते हैं जिस का नतीजा यह होता है कि जो गरीब जनता है, मजदूर जनता है उस का खून चूसा जाता है । मिसाल के तौर पर मैं बतलाऊंगा कि हमारे गोंदिया में एक बीड़ी छांट बिल्डिंग बनी है । मजदूर लोग रोजाना जो काम करते हैं उस की छांट करने पर यह बिल्डिंग बनाई गई है । उस का नाम ही बीड़ी छांट बिल्डिंग रखा गया है । बीड़ी की छांट करने पर और मजदूरों का खून चूस कर, लड़ाई के जमाने में यह बिल्डिंग बनी है । ऐसी बिल्डिंग को हमें खत्म करना चाहिये । भ्रष्टाचार का यह जागता स्वरूप हम रोज देखते हैं ।

जो बड़े बड़े व्यापारी लोगों के काम करने का तरीका बन गया है, जो उन के दिल और दिमाग बन गये हैं उस को बदलने के लिये यह मेजर आया है । लेकिन वह पूरी तरह से तब तक कामयाब नहीं हो सकता जब तक कि सरकारी कर्मचारी ईमानदारी से काम न करें । इसीलिये उन के पुराने ढांचे को भी हमें बदलना चाहिये । उन को जनता से और व्यापारियों से भी ईमानदारी से बरताव करना चाहिये । जब भी वह किसी व्यापारी के यहां जायें, उन को दोनों तीनों

[श्री एन० ए० बोरकर]

बहीखातों की जांच करनी चाहिये । जो बहीखाते व्यापारी उन के सामने रखते हैं, उन के भुलावे में उन को नहीं आना चाहिये । अगर सरकारी कर्मचारी ठीक ढंग से अपना काम करेंगे तो हमारा काफी फायदा होगा ।

सभापति महोदय, मैं आप का ज्यादा समय नहीं लेना चाहता । आप ने मुझे जो समय दिया है, उस के लिये मैं आप को धन्यवाद देता हूं और यह चाहता हूं कि जो बिल लोक सभा के सामने आया है वह पूरे हथियार का काम देगा उन लोगों के लिये जिन्होंने गरीबों का खून चूसा है और अपनी पेटियों में गवर्नमेन्ट का तथा जनता का पैसा छिपा कर रखा है । मैं कहना चाहता हूं कि हमारे देश में पैसे की कमी नहीं है, अगर लुटेरे कम हो जायें और जनता तथा सरकारी नौकर ईमानदारी से काम करें तो वह सब हम को मिल सकता है और निर्माण के काम में लाया जा सकता है ।

Shri M. C. Shah: Sir, I oppose all the amendments. First of all, I will take the amendments of my friend Mr. Dube. He wants to have as a condition precedent a certain amount of property before proceedings can be initiated. It is Rs. 50,000 unalienated property. I do not accept that because in that case those who had evaded and who had alienated their property will be in an advantageous position.

He again wants to delete the clause about settlement. This has been advisedly put in, as I have already explained in my reply. As a matter of fact, the settlement clause was there in the Income-tax Investigation Commission Act. When we want to dispose of these, we would like to have the co-operation of those who are to be assessed and to come to some terms and settlement with them, as early as possible, and to collect the tax and finalise the whole matter.

With regard to the three amendments of my friend Mr. Basu.........

श्री पी० एन० राजभोज : इस बिल से कितना पैसा जमा होगा, यह बताइये ।

सभापति महोदय : अब आप चुप हो कर सुनिये ।

Mr. M. C. Shah: Does he want to know about 5(4) or 5(1) and 5(4) both?

सभापति महोदय : नहीं, नहीं, वह जानना चाहते हैं कि यह जो कानून आप बना रहे हैं इस से कितना रुपया इकट्ठा होगा ।

4 P.M.

Shri M. C. Shah: Yesterday I gave some figures and there is some discrepancy. In all those cases which were already disposed of under 5(4), the tax comes to Rs. 5·25 crores. There are yet 145 cases to be investigated now. At the same time under section 5(1) already some 830 cases were disposed of. Out of these 830 cases 369 cases were referred to under section 5(4). There are 482 cases under section 5(1) and we do not know how many cases will come out of those 482. Supposing the Income-tax Investigation Commission comes to the conclusion that there are certain other things involved in those cases which are being investigated under section 5(1), they cannot be taken up now under section 5(4) by the Investigation Commission. They will only be taken up under this Act and we do not know how many cases there will be.

Now, my friend in one of his amendments wants to delete this limit of one lakh of rupees. I have already explained that from the revenue point of view it is good and we should accept it. At the same time, as already stated, the ordinary people may not have got the accounts books for a number of years. Therefore, there will be harassment of these small businessmen. We do not want to harass those people and that is why we only want to take the case of those who have evaded income-tax on their income exceeding Rs. 1 lakh.

Shri K. K. Basu: Their books also must have been destroyed and we

would not be able to get hold of them.

Shri M. C. Shah: We will just see. Now, there is another amendment deleting the time limit up to 31st March, 1956. As I just now said, there are 369 cases under section 5(4) and many more cases out of the 482 cases under section 5(1) and so on. Therefore, we want to limit the period up to 31st March, 1956. We want to issue notices of those which may not have been finalised by that time, but about the notices we want to put a limitation.

Now, about the general question as to whether there should be no time limit, in section 34. It is not there in so many other countries like the United States and the United Kingdom. That matter today is being investigated by the Taxation Enquiry Committee, and I have said already in my reply, that report will be coming very soon. I also stated that after getting the recommendations from the Enquiry Committee we will go into the recommendations and if they recommend that there should be no general time limit in Section 34, certainly we will consider that and bring it in the comprehensive amending Income-Tax Act.

Shri K. K. Basu: May I know, do you expect cases pending before the Income-tax Investigation Commission to be finished in another year? I should say that the rate of progress is not so fast.

Shri M. C. Shah: The period of the Investigation Commission expires on 31st December, 1955 and, possibly, we expect that all these cases—482 or so—will be over by that time. Under section 5(1) as I have already stated there are 482 cases but there are groups of them; one group may be about 50, another group 60 and so on. Possibly, they are at work and they may finish by that time. That is why we have put down that the notices should be issued by 31st March, 1956 and the general question may be left over to the Taxation Enquiry Committee.

Then, this third amendment is that annually a report shall be placed on the Table. We cannot accept that and that cannot be incorporated in the Law. I can assure the House that all those cases which are settled; which are investigated, demands raised and tax collected will be placed on the Table of the House. There is no difficulty for the Government to place them before the House.

Shri K. K. Basu: Including the names?

Shri M. C. Shah: About the names, perhaps the hon. Member knows that there is section 54 under the Indian Income-tax Act. As long as it is not amended and as long as it is there on the statute-book, the Government cannot divulge the names of the assessees. So far as the Investigation Commission is concerned, there also there is the provision that names cannot be divulged. My friend complained that we are not giving them figures regarding the Investigation Commission and that they are treated as confidential. They are not treated as confidential. As a matter of fact, in each session, there are so many questions about how many cases have been disposed of, how many cases have been settled, what is the demand raised and what is the income. We always give that information. About the names we cannot give that. Section 54 of the Income-tax Act and the Investigation Commission Act impose secrecy on the Government. As long as those sections are there, Government cannot divulge the names.

Shri K. K. Basu *rose*—

Mr. Chairman: I would request the hon. Member to keep his other remarks for the third reading.

Shri K. K. Basu: Sir, there is a misstatement. I sent some requisition regarding some facts and not names and I was told that they cannot give the same under some rule.

Mr. Chairman: The hon. Member can get it clarified from the Minister privately.

Shri M. C. Shah: So, Sir, the complaint of not supplying figures is not correct. There is nothing confidential about giving figures. The figures are practically given a dozen times. Just a week before I gave all the figures and they are with me even today. I can give them at any time. But regarding the names they cannot be disclosed as long as section 54 is there on the statute-book.

Therefore, Sir, I oppose all the amendments and I hope they all will be thrown out by the House.

Mr. Chairman: The question is:

"In page 1, omit lines 18 to 20."

The motion was negatived.

Mr. Chairman: Does Mr. Mulchand Dube want me to put his amendments?

Shri Mulchand Dube: No. Sir, I beg to withdraw them.

The amendments, were by leave, withdrawn.

Mr. Chairman: The question is:

"In page 2, omit lines 17 and 18."

The motion was negatived.

Mr. Chairman: The question is:

In page 2, after line 41, add:

"(1E) Annually a report shall be placed on the Table of the House of the cases reported hereunder, giving the amount of evasion involved, tax collected by either method of assessment or settlement and also the names of such assessees."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted

Clause 2 was added to the Bill.

Mr. Chairman: The question is:

"That clauses 1, 3 and 4, the Long Title and the Enacting formula stand part of the Bill."

The motion was adopted.

Clauses 1, 3 and 4, the Long Title and the Enacting Formula were added to the Bill.

Shri M. C. Shah: Sir, I beg to move:

"That the Bill be passed".

Mr. Chairman: Motion moved:

"That the Bill be passed."

Kumari Annie Mascarene (Trivandrum): This Bill is a clear proof of the lack of a comprehensive tax system for the State. I am satisfied at the assurance given by the hon. Minister that they are awaiting the Taxation Enquiry Commission's report to frame for the country a comprehensive system of tax. In the meanwhile, I beg to remind the Government that the principle of economy they have accepted is mixed economy and as long as the country has accepted the mixed economy, and as long as the private sector dominates over the public sector, a comprehensive system of taxation is necessary to socialise the State and to administer equity of justice to the tax-payers. As it is today, I beg to point out that the burden of taxation rests on the poor man. This is clear proof of Government's preferential treatment hitherto carried out. This is not a voluntary Bill. This is a Bill forced on the Government, forced by a Supreme Court pronouncement, forced by public opinion. On this side of the House you would have heard many a time during the last seven years that the system of taxation does not justify equity at all. More than once we have pointed out tax evasion and today Government has brought forward the Bill. I am happy to support it, but at the same time I wish to remark that it were voluntary. The importance of the Bill is minimised by the provisions in it. The discrimination as seen in clause (ii) of section 2 is itself a great injustice to those who pay. It has been elaborately dealt with in this House and I do not wish to deal with it any more. On the provisions in section 2 with regard to income-tax officers, much might be said on both sides. I understand the wisdom of Government in not investing Income-tax Officers with powers for they must have been more than once convinced of the corruption of Income-tax Officers. Of course, we have confidence in the Board and nothing can be done or no assessment can be done without satisfying the Members of the Board with the reasons for such assessment. I think Government is right in making that provision, notwithstanding the fact that Income-tax Officers are more than adept in making assessment.

On the whole, I wish to support the Bill. It is a salutary measure, but please be bold enough to make it a salutary measure by reforming the clauses and provisions in it which allow more than half the black-marketeers to escape. You have left a loophole there for them to escape and you have left the trap-door open to catch honest people. With these remarks, I support the Bill.

Shri D. C. Sharma (Hoshiarpur): I have gone through the provisions of the Bill and have listened to some of the able expositions of the Bill on the floor of the House. I think the Bill embodies a moral philosophy and I am in wholehearted support of that moral philosophy. The moral philosophy is that the person who profiteers, that the person who makes money in an illegitimate manner, is to be caught hold of and punished as severely as possible. I think this ethical approach of the Bill is very good because of the many despicable character produced by the modern civilisation, none is more abominable than the person who profiteers and who amasses money in all kinds of ways. Only this morning Mr. Gadgil read out a case in which it was pointed out how a man tried to play with the lives and health of soldiers, but I ask: Are we justified in limiting the time of the Bill? Are there no black-marketeers in India now? Are hoarders gone out of India? Are there no persons who try to acquire wealth in all kinds of ways? Only during the last two or three days I have been reading about the artificial sugar scarcity in this country and I think all my friends have read about it—it has been front-page news in almost all the newspapers in India. Stocks go underground and artificial scarcity is created in the market.

Mr. Chairman: Let me remind the hon. Member that the time for the third reading is very restricted.

Shri D. C. Sharma: And therefore I am speaking with a sense of restriction. It is given in this Bill that only ill-gotten incomes are to be assessed which fall within a particular time-limit. So far, it is good, but I would have liked the Finance Minister to see to it that this should have been made not a restrictive measure of that type, but it should have been made a measure applicable to the conditions prevailing in India for as long a period as possible. That is my humble suggestion. But it has not happened. All the same, I think that it is good so far as it goes.

Again it has been said that only that amount of profit is to be taxed which goes above a limit of Rs. 1,00,000. I think tax evasion is bad as theft is bad, whether the theft pertains to a rupee or two or five or ten. Why can you not apply the same principle of jurisprudence to tax evasion as you apply to the case of theft and other things? I cannot understand why this inequitous provision is there that income only above a certain limit should be taxed. It may be said that this has been done because the expenditure involved in assessment would be too

[Shri D. C. Sharma]

heavy. Of course, it may be there, but you should not let off some persons because the rot does not start only at the bottom; it also starts at the top. Therefore, if you want to prevent rot, you should have a law which applies to all cases from top to bottom. Here I find that the limit has been very high and I know there are persons who can evade it. Only just now I listened to a speech delivered by my friend, Mr. Borkar who said that accounts are cooked up and all kinds of books and registers and ledgers are kept, and that everything is done to throw dust in the eyes of the Income-tax Department. I know the Income-tax Department sits very hard upon those persons who draw regular salaries. Their income is there; they are very strict in dealing with them; they are just in dealing with them if I want to be charitable to them. But when he goes to assess the incomes of the traders and others, I must say that they are not as vigilant and as accurate and as strict as they should be. I do not want to say anything harsh about anybody. I am a very kind-hearted person. But I want to say that this rule should be applied to all the persons. There are so many loopholes given to them. Then there is the time for appeal, I believe, six months and all that kind of thing. I would, therefore, say to the hon. Finance Minister to look into these things.

I congratulate you on the Bill that you have brought; it goes a little way and I would ask you to bring a comprehensive Bill in this House which covers all these cases.

Mr. Chairman: It is far better if the hon. Member continues to address the Chair.

Shri D. C. Sharma: Sometimes the speaker has to look right or left; he could not always be looking to the Chair.

Mr. Chairman: The Chair is not envious of his looks but he should address the Chair.

Shri D. C. Sharma: I was looking all the time at you and addressing you but sometimes I had to turn right and sometimes left.

What I am submitting is this. When he brings the comprehensive Bill, I would request him not to show mercy to black-marketeers, and to the profiteers whether they belong to this city or that city and to see that the profit limit is reduced and also the time-limit is not as much as to take away the effectiveness of the Bill.

सरदार ए० एस० सहगल : अध्यक्ष महोदय, यह जो बिल लाया गया है, उस का मैं स्वागत करता हूं ।

Shri B. N. Misra (Bilaspur-Durg-Raipur): On a point of order, Sir, can an hon. Member address the Chair as 'Mr. Speaker' when the Speaker is not in the Chair?

Sardar A. S. Saigal: Sir, you are there on the Chair as Chairman and....

Mr. Chairman: There is no harm in addressing the Chair in that way whoever occupies it as the functions are the same and are to be performed; therefore, that would not make any difference.......

Shri B. N. Misra: That makes a difference...

Mr. Chairman: That is all right. He can continue the speech.

सरदार ए० एस० सहगल : मेरे मित्र शायद कानून ज्यादा जानते हैं । लेकिन उन को यह मालूम होना चाहिये कि जब चेअर पर कोई चेअरमैन बैठता है तो वह अध्यक्ष का ही काम करता है ।

सभापति महोदय : अब आनरेबुल मेम्बर साहब अपनी तकरीर शुरू करें ।

सरदार ए० एस० सहगल : अध्यक्ष महोदय, मैं आप से यह अर्ज कर रहा था कि इनकम

टैक्स आफिसर को जो अधिकार दिये गये हैं, उन में उन को पूरे अधिकार इसलिये नहीं दिये गये कि कहीं अपने अधिकार को प्राप्त करने के बाद वह गलती न करें। उन्होंने सेन्ट्रल बोर्ड आफ रेवेन्यू को यह अधिकार दिया है कि जब तक वह सैटिस्फाई नहीं हो जाता तब तक वह अफसर किसी किस्म का नोटिस नहीं दे सकता। इस बिल में जो यह क्लाज रखा गया है उस से कोई भी इनकम टैक्स अफसर किसी किस्म की गलती नहीं कर सकता है।

हमारे कुछ मित्रों का यह विचार है कि इनकम टैक्स डिपार्टमेन्ट जो काम कर रहा है वह ईमानदारी से नहीं करता है। मैं इस चार्ज के सम्बन्ध में कम से कम इस हाउस के सामने यह कहने के लिये तैयार हूं कि एक दो अफसरों के गलत काम करने से सारा डिपार्टमेन्ट बदनाम नहीं हो सकता है। इनकम टैक्स डिपार्टमेन्ट में इस वक्त जो कार्य हो रहा है वह सराहनीय है हमें यह मानना पड़ेगा।

सभापति जी, मैं आप से यह कहने जा रहा था कि यह जो हमारा बिल है उस में अभी बहुत सी खामियां हैं और उन खामियों को यदि हम दूर कर सकें तो हम को बहुत ज्यादा फायदा, खास कर इनकम टैक्स के प्राप्त करने में, हो सकता है। चूंकि सरकार के पास इस वक्त समय नहीं है, इसलिये उन्होंने यह बिल यहां पर रखा है। मान लीजिये कि एक व्यापारी है उस ने ब्लैक मार्केट कर के, काला बाजार कर के बहुत सा पैसा इकट्ठा किया है। उस को वक्त दिया गया फिर भी यदि उस ने अपनी प्राप्त की हुई रकम को गवर्नमेंट के सामने या इनकम टैक्स डिपार्टमेन्ट के सामने नहीं रखा तो इस बिल के जरिये से सरकार उस से टैक्स वसूल कर सकती है। यहां पर मैं आप से यह भी पूछना चाहता हूं कि व्यापारी लोग जो हैं वह तो इस कानून के अन्दर आ सकते हैं, लेकिन दूसरे क्लासेज के जो लोग हैं उन के लिये कौन सी तजवीज आप लाना चाहते हैं ? माननीय मंत्री महोदय ने बताया कि सन् १९५५ तक वह एक काम्प्रिहेन्सिव बिल लाना चाहते हैं। यह खुशी की चीज है क्योंकि उस से कम से कम वह पैसा जिसे किसी व्यापारी ने अफसरों ने या कंट्रैक्टर ने छिपा कर रखा है, और जो सरकार के पास आना चाहिये, वह बराबर आता रहेगा। आज भी हमारे यहां बहुत से लोग हैं जो कि अपने हिसाब छिपा कर काम करते हैं, और एक नहीं, दो या तीन हिसाब अपने पास रखते हैं। जब इनकम टैक्स का कानून फिर से आये तो उस में यह सब प्राविजन होने चाहिये ताकि सरकारी कर्मचारी उन बहीखातों को देख सकें।

इन शब्दों के साथ जो बिल आया है मैं उस का समर्थन करता हूं।

Shri M. C. Shah: Mr. Chairman, I have not much to add to what I have already said. I am grateful to the House for giving its unanimous support to this Bill. I should express the hope that the tax evaders in the country will take note of the sentiments expressed by all sections of the House and will see that they pay their dues to the Government—whatever dues are there. With regard to the comprehensive legislation, I have already stated that after the Taxation Enquiry Commission's Report comes before us, we will examine that and we propose to bring, as early as possible, a comprehensive Bill to plug the loopholes that may be there. I hope that the hon. Members also will give full co-operation to the Central Board of Revenue and to bring to our notice if they come across cases of evasion of tax and I can assure them that all these cases will be looked into immediately and effective action will be taken...

Shri K. K. Basu: Do not be soft.

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

CENTRAL EXCISES AND SALT (AMENDMENT) BILL 1954

The Deputy Minister of Finance (Shri A. C. Guha): Mr. Chairman, I beg to move:

> "That the Bill further to amend the Central Excises and Salt Act, 1944, be taken into consideration."

I think the hon. Members will recollect that some time back in this House there were references on several occasions to the introduction of the machines in the *biri* manufacturing trade. That was taken as menace to the employees in the *biri* manufacturing industry. This Bill is to counteract that menace.

The *biri* industry is a labour-intensive industry. A large number of workers are employed, sometimes children, sometimes women, and often invalid persons also participate in this business.

[SHRI PATASKAR *in the Chair*].

They do these things in their own houses. The *biri* manufacturers employ some contractors known as *sattawalas*. Each manufacturer has fifty or sixty *sattawalas*. Those *sattawalas* or contractors take the tobacco, the wraper leaf and thread from the manufacturers and distribute these things to their workers. Very often these workers are children, women and often invalid persons. They do this work in their own houses. There are about six lakhs workers now employed in this industry. It is a cottage industry almost in the truest sense of the term as the workers very often do the work in their own houses.

When the *biri* manufacturing machine was introduced, it was naturally taken as a threat to the employment of these six lakhs workers. According to our calculation about 65 per cent. of the workers will go out of employment if this machine is allowed to work in the manufacture of *biris*. This machine can do 1,500 *biris* in one hour, whereas a very skilled worker can produce only 125 *biris* in one hour. So you can just understand the competitive position of an ordinary worker as against this machine. When already the unemployment problem before the country is rather serious, if sixty-five per cent. of these six lakhs workers are to go out of employment, surely the Government cannot be indifferent to such a situation. That is why on the 30th July an ordinance was passed whereby an excise duty of three rupees per thousand *biris* was imposed.

I think I should state here that this machine has practically not started working in the *biri* manufacture. Only four or five machines were sold, two in Bombay, two in Calcutta, and I think one in Baroda. The two machines in Calcutta did not produce any *biri* for sale; only, they were used for demonstration purposes. In Bombay they produced only about 2,70,000 *biris*. And in Baroda that machine produced some *biris*, but those were not sold as the consumers refused to take those things, and now that man who has purchased that machine has asked for the permission of the Government to destroy those *biris*.

Since the promulgation of the Ordinance this machine has not really been able to work and so we can take it that the Ordinance has been quite effective and it has served the purpose for which it was promulgated.

We have calculated also that the profit margin of machine manufacture of *biri* would be about Rs. 1-14-0 per thousand, and that has been the basis of calculation for fixing the rate of excise duty. We have put an excise duty of three rupees on thousand *biris*. But, as I have stated, the profit to be made by the manufacturer of the machine-made *biri* over the hand-made *biri* is Rs. 1-14-0 per thousand. So three rupees per thousand is quite a prohibitive rate for the introduction of machine in the *biri* manufacture.

Shri Kasliwal (Kotah-Jhalawar): What is the price of the *biri* manufacturing machine?

Shri A. C. Guha: Rs. 2,200. It is not a very costly thing. And that is also one of the difficult points which the Government has to contend with. If the machine was a very costly one, then people might not have gone for the machine. But when it is rather cheap, costing only Rs. 2,200, there would be a large number of people who would be in a position to invest two or three thousand rupees; and that is why Government took prompt steps to see that this machine may not be introduced or may not be put in use at all.

I have already stated that there are six lakhs workers, and I think hon. Members of the House may be interested to know the Statewise break-up of these six lakhs workers. This industry is mostly concentrated in four States. Madhya Pradesh has got 1½ lakh workers; Bombay 1,52,000; Madras 96,000; West Bengal 72,000; and the rest of India 1,50,000.

I think this is a very simple Bill. It is a Bill of only one clause, and it embodies or implements the ideas very often expressed in this House. And there is nothing controversial in this matter. So I hope hon. Members will take the Bill in good grace. I commend the Bill for the consideration of the House.

Mr. Chairman: Motion moved:

> "That the Bill further to amend the Central Excises and Salt Act, 1944, be taken into consideration."

Shri M. S. Gurupadaswamy (Mysore): Sir, I have an amendment.

Mr. Chairman: Does he want to speak on the amendment or on the motion?

Shri M. S. Gurupadaswamy: My amendment is to circulate the Bill. I also want to speak on the Bill.

I beg to move:

> "That the Bill be circulated for the purpose of eliciting opinion thereon of *Biri* workers and others who participate in the manufacture and sale of *biris*, by the first week of December, 1954."

I am not a *biri* smoker; I am not a smoker at all.

The Deputy Minister of External Affairs (Shri Anil K. Chanda): Take to it.

Shri M. S. Gurupadaswamy: Anyway, I am associated with the *biri* industry because my constituency is full of *biri* workers and *biri* manufacturers. It was very surprising that the Minister said that this measure is very simple, it is a one clause Bill and it is not at all controversial. I am astonished at the way he talked. There are so many issues involved in this measure. Though the Bill looks very simple with only one clause in it, its implications and the consequences of this measure, I feel, are very far-reaching.

It is very unfortunate that the Minister has not appreciated the problems of this industry. This industry has been in a very disorganised condition. Of course, it is run on a cottage industry basis both in the rural and urban areas. Also, it is true that it is run, controlled, managed and owned mostly by individual *entrepreneurs*. There is very little co-operative effort, very little collective set-up in this industry. I agree with the Minister that this *biri* manufacture is done by families with very little organisation. That is the great drawback of this industry. The manufacture is carried on by families in their homes, working 8 hours, 10 hours or 12 hours a day. Now, with the gradual development of this industry, we have been evolving a specialised class of workers in this industry. Formerely. *biri* manufacture was a subsidiary industry for most of the people and people used to get a supplementary income out of this industry. They used to devote their spare time, in the night or day. Whenever they got time, they used to take to *biri* manufacture. With the gradual development of this industry, though still in

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an unorganised state, the workers in this industry have come to form a specialised class. They are not people who take or can take to other avocations in life. They are mainly depending upon this industry. I gather from the Minister that nearly 600,000 workers are employed in this industry. It is a considerable number.

This industry has got certain big problems. Since this industry is disorganised, the Factories Act is not being applied strictly and other labour laws are also given a go-bye. We also find that the employers have been employing women and children and all sorts of people belonging to various age groups without regard to their health and other conditions. The wages that they get are miserable. The conditions in which they are working are abominable. Facilities, medical and otherwise are totally absent. So, we see that the Government have not done anything so far to organise this industry on a proper basis. They have not done anything to protect the interests of labour. The hon. Minister was just now waxing eloquent about labour difficulties. I am very glad that at least in speeches, the members of the Treasury Benches are sympathetic about labour and their interests. What have you done, I ask, till now to protect the interests of labour. Have you issued any directive to the Labour Department in the States? Or, have you taken any concrete measures to organise this industry on sound lines and to protect the interests of labour? The failure of this industry to organise itself is mainly due to the policy of the Government, to the callous neglect of the Government. I charge this Government and the States Governments that no effort has been made to properly control, organise, or bring about some sort of good conditions in this industry.

The purpose of this Bill, as I understand, is to impose an excise duty on *biris* manufactured by mechanical processes.

Shri V. B. Gandhi (Bombay City—North): As I understand, the time allotted by the Business Advisory Committee for this Bill is only three hours. Would you therefore consider putting some limitation on the time for the speeches?

Shri Bansal (Jhajjar—Rewari): Our experience has been that time-limit is imposed after one or two speakers have spoken, with the result that those who stand up later on get only five minutes or ten minutes.

Mr. Chairman: I think the subject is very small. We shall see.

Shri M. S. Gurupadaswamy: I do not propose to take much time.

Mr. Chairman: If hon. Members realise that factor, the Chair need not intervene at all.

Shri M. S. Gurupadaswamy: The purpose of the Bill is to impose an excise duty on *biris* manufacutred by mechanical processes. The rate of duty contemplated is Rs. 3 per thousand. The hon. Minister observed in the course of his speech that the margin of profit that will accrue as a result of the introduction of mechanical processes will be near about Rs. 1-14-0 per thousand. I will take that statement as correct. But I want to point out a contradiction in his speech. He said on the one hand that the margin of profit as a result of the introduction of machines in the *biri* industry would be about Rs. 1-14-0, per thousand. Then, on the other hand he said that he wants to impose a duty of Rs. 3 per thousand. He observed that this is not prohibitive. I cannot understand how it is not prohibitive. If the margin of profit is only Rs. 1-14-0 according to his own statement and the duty is Rs. 3, I could not understand how it is not prohibitive. It will prohibit the introduction of machines. I want to know from the Minister whether he wants totally to prohibit the machines.

Shri A. C. Guha: I have stated that it is a prohibitive duty. I have not said that it is not prohibitive.

Mr. Chairman: It is not prohibitive to the consumer; it is prohibitive to those who want to mechanise. Probably that is what the hon. Minister means.

Shri M. S. Gurupadaswamy: Then I take it that the hon. Minister does not want the introduction of machines in *biri* manufacture. But, I may pose a few questions to him. What is the state of *biri* manufacture? How many *biris* are we manufacturing today? I understand that we are manufacturing 75 crores of *biris* every day in India. So far, the market for these *biris* is only internal. The little external markets that we had have been lost. During the war there was a good market for the *biris*. There was really an expansion of the markets at that time. There was good demand from outsiders. After the war, the external market for *biris* has been dwindling. For example, we had a good market in Pakistan. Pakistan now has imposed heavy import duties on *biris*. The market in Pakistan for our *biris* is fast disappearing. Again, in Ceylon and Burma, we had very good markets for our *biris*. Now, they have got their local varieties and they do not want to import our *biris*. To that extent, we have lost those markets. But still we can have good markets in other countries. There are marketing possibilities for example in some of the Middle Eastern countries, and in some of the South East Asian countries. For instance, there is marketing possibility in Malaya. We can have good markets in Nepal and also we can have good markets in Afghanistan and other Middle Eastern countries. If we really are serious about capturing external markets. I think it is very necessary to expand our production of *biris*, and any expansion in the production of *biris* also should involve improvement in quality. Today there are all kinds of *biris* available in India. There is no standardisation as such. There is no one standard *biri* and we do not have quality *biris*. *Biris* are not properly graded and there is no control at all over the quality of *biri* manufacture. So, I say that if we can bring measures or take proper steps to control the quality of *biris*, standardise them, and also if we can take sufficient care to see that the cost of production of the *biri* is reduced, then it would be possible for us to expand *biri* manufacture and by slowly introducing machines we will not be in any way displacing labour. So, it is very unreasonable I say to prohibit once and for all the introduction of mechanical processes, mechanical techniques into *biri* manufcture. On the other hand, I want the Government to take other measures of expanding *biri* manufacture, improving *biri* manufacture and also to find more markets for them outside India. So, now what is necessary today is to introduce co-operatives into *biri* manufacture and also to remove the intermediaries who are found in a large number in this sector.

For example, I may say that the wrappers are supplied not by people direct, but only by brokers, intermediaries, on a commission basis, as a result of which the cost of production has gone high. So, if you remove these intermediaries, middlemen, brokers, it is quite possible to bring down the cost of production.

Then again, it is also necessary that from the point of view of the *biri* industry we should think of the competition from cheap cigarettes. Now, cheap cigarettes are being manufactured in India. They are great competitors, and naturally, if there are cheap cigarettes, people would like to have cheap cigarettes instead of *biris*. I do not know all the varieties of cigarettes, that are available today because I am not a smoker. I think cheap cigarettes are available in large number. I am told for two annas you can have ten cigarettes of "Charminar" variety. So, when the competition is so great, it is very difficult to maintain this industry for long. So, I say biri manufacture should continue, and not only continue, but expand; not only expand, but expand on the basis of

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improved techniques, improved machinery. And after all, the machines that have been invented have been invented by us, have been manufactured by Indians. The manufacture of machines provides employment for a large number of people. So, we are not in any way displacing labour by introducing machines. By the introduction of machines, we do not mean that it will upset the entire *biri* industry. If you take other measures, proper measures, then it will be possible to bring about improvement of manufacture by introduction of machines, and at the same time keep the employment level as it is or even improve it. So, I fail to understand why the Minister has not given sufficient thought to these things.

I feel that Rs. 3 per thousand is very prohibitive, and we should not prohibit the introduction of machines in the manufacture of *biris*. I therefore suggest that this Bill may be circulated to elicit opinions of those people who are interested in *biri* manufacture, and who participate in the manufacture of *biris*, and after having their opinion, we can fix up whatever rate is reasonable. I strongly feel that the present rate suggested in the Bill is very unreasonable.

There is an amendment given by Shri Sadhan Gupta. He suggests increasing it to Rs. 8.

Mr. Chairman: Let us not discuss those amendments.

Shri M. S. Gurupadaswamy: I am just finishing.

Mr. Chairman: The point is, because we have given three hours to the whole of this Bill, and I think the hon. Member has made many points, let some other members also speak on it.

Shri M. S. Gurupadaswamy: I find there is another amendment by Shri Madho Reddi who suggests Re. 1. I feel the duty should be reduced, and it will be better if we fix up at Re. 1 or Rs. 1-8-0. That would be a reasonable rate.

I again suggest that this Bill may be circulated to elicit opinion and after ascertaining the opinion we may fix up the rate of duty.

Mr. Chairman: Amendment moved:

> "That the Bill be circulated for the purpose of eliciting opinion thereon of *biri* workers and others who participate in the manufacture and sale of *biris*, by the first week of December, 1954."

पंडित डी० एन० तिवारी (सारन दक्षिण) : सभापति महोदय, अभी श्री गुरुपादस्वामी के भाषण को मैं ने सुना। मेरी समझ में नहीं आया कि इतने सीधे सादे बिल को उन्होंने कम्प्लेक्स कैसे बना दिया। आप लोगों की आदत हैं कि साधारण सी बात को भी कम्प्लेक्स बना देते हैं। इतना सिम्पल बिल हैं कि मिनिस्टर साहब ने कुल चार पांच मिनट में उस को सदन के सामने रख दिया। लेकिन आप को उस को कम्प्लेक्स बनाने में २५ मिनट लगे।

मुझे याद हैं कि जब श्री गुरुपादस्वामी के नेता श्री कृपालानी जी कांग्रेस के प्रेजिडेन्ट थे तो एक बार बिहार का टूर कर रहे थे। उन्होंने विश्लेषण किया कि गांधीवाद में और समाजवाद में क्या अन्तर हैं। उन्होंने कहा कि गांधीवाद बतलाता हैं कि शरीर में फोड़ा नहीं होने देना चाहिये, घाव नहीं होना चाहिये। लेकिन समाजवाद कहता हैं कि अगर शरीर में घाव हो तो साइंटिफिक तरीके से उस का इलाज करो और अच्छी छुरी से उस को काटो। इस तरह से उस को अच्छा करो। यही फर्क हैं। मैटर बहुत ही हैं बीड़ी इन्डस्ट्री एक मैनुअल लेबर की इन्डस्ट्री हैं। उस के बनाने वाले जो गांव के लोग होते हैं उनके परिवार भर के लोग उनको बनाते हैं और परिवार भर के लोग काम करते हैं तब उन की आमदनी में कुछ एडीशन होता हैं। अब मशीन ईजाद हो गई हैं। इस से यह हुआ कि वह मशीन १२ या १५ आदमियों का काम अकेले एक आदमी से करा लेती हैं। आज बीड़ी

की जितनी खपत देश में होती है या जितनी बाहर जाती हैं, उस का हिसाब लगाया जाये तो उतनी बीड़ियां थोड़े समय में ही मशीन के द्वारा थोड़े आदमियों से बनाई जा सकती हैं। गवर्नमेन्ट ने इस परिस्थिति को देखा और बेकारी अधिक न बढ़ जाये, साथ ही मशीन खरीदने वालों को भी कोई ज्यादा खर्चा न पड़ जाये या अधिक लोग मशीन न खरीदें, इस को बचाने के लिये फौरन उस ने स्टेप लिया, और स्टेप ले कर एक आर्डिनेन्स निकाला जिस में बीड़ी मशीन द्वारा बनाना प्राहिबिट हो जाये। उस आर्डिनेन्स के मुताबिक जो बीड़ी बनाने वाले लेबरर्स हैं या जो इस इन्डस्ट्री में काम करने वाले हैं उन को प्रोटेक्शन दिया। उसी आर्डिनेन्स को कानून का रूप देने के लिये यह बिल आया है।

Mr. Chairman: How long will the hon. Member take?

Pandit D. N. Tiwary: Ten minutes more. I have spoken for two or three minutes only, Sir.

Mr. Chairman: I think the House will now stand adjourned and meet on Monday at 11 A.M.

The Lok Sabha then adjourned till Eleven of the Clock on Monday, the 20th September, 1954.